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JOINT APPENDIX

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM 1980

* * *

NO. 80-1538

* * *

JAMES PLYLER, Et Al.
V.
J. AND R. DOE, Et Al.

* * *

NO. 80-1934

* * *

STATE OF TEXAS, Et Al.
V.
CERTAIN NAMED AND UNNAMED
UNDOCUMENTED ALIEN CHILDREN, et.al.

VOLUME B

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PLYLER V. DOE: RECORD OF PROCEEDINGS TRIAL ON THE MERITS, DECEMBER 12, AND 16, 1977

TESTIMONY OF GILBERT CARDENAS

[page 16]

Q. Dr. Cardenas, have you had an opportunity to study the historical treatment of Mexican migration to the United States?

A. Yes.

Q. Could you briefly describe the historical overview of this process?

A. I'll try to be brief. I think from my standpoint and from the work that I have been able to see and study I find three major areas that we could identify for this historical sketch.

One is the historical role of immigrant labor in the United States as one of the salient issues pertaining to the migration of Mexicans to the United States. The other is a cyclical pattern in which workers have been imported and deported from this country, primarily Mexican workers, and the third is the desirability for Mexican Nationals to work in the United States and not to become settlers, and this policy in a sense can be construed as U.S. immigration policy toward Mexico.

In 1911 the Dillingham Commission published a report, a series of reports, fifty-two volumes, a study on emigration to the United States, and this study concluded that Mexican workers were desirable as laborers but not settlers, and this had a lot to do with

the assumed alleged biological inferiority of the Mexican National. There's a great deal of concern about the racial composition of the population at this time, and many people, particularly in the State of Texas, were also concerned about the homogeneity of the native stock and were opposed to the incoming migration of Mexican workers.

On the other hand – this is in the 1910's – you also have the rise of various types of industries, particularly in agriculture, large-scale agriculture, the railroad industries, the transportation systems that were being developed in the Southwest. These two interests clashed. On the one hand, employers wanting to import Mexican workers and trying to work out ways by which Mexican workers could otherwise be brought into the country, and then the racial concern, the racial attitude against Mexicans. This clash was finally resolved by the United States Department of Labor through the institutionalization of the temporary contract worker program. This continued until 1924. In fact, something like a hundred thousand Mexican workers were imported on a temporary basis to work in U.S. agriculture, particularly in Texas and the Midwest, and expected to return back to Mexico. This satisfied the persons who were concerned about the racial composition of the population, and yet, also satisfied the employers who were seeking to utilize Mexican labor, because it was allegedly cheap and more manageable.

This I argue through the work that I have done has been the foundation point of all U.S. emigration policy to Mexico. We repeated this in 19 – well, actually, in the thirties but in the reverse situation. After the numbers of immigrants had continued to accumulate in the country legally and illegally during the depression, large numbers, perhaps one-sixth of the total Mexican population were deported or otherwise sent back to Mexico.

In World War II, just as in World War I, there was another great demand and a need for immigrant labor. Mexicans were, in turn, sought after for the importation of more workers, which was also to become a temporary work program, but, in effect, became a – actually starts in 1942 to 1964 – and went beyond the war, and virtually thousands and millions of Mexican workers were contracted to work in the United States temporarily and sent back after the work was completed. In 1954 we had the large-scale deportations in Operation Wetback of excess numbers of immigration workers that had been here. In many cases, as in the case of the 1930's, in 1954 many people who were deported were also legal U.S. citizens, that is, their children were born here in the country during the time that the immigrants were working in the country.

Now, what this tells us is that there have been many interests, employer interests, and interest within the United States government and within the state governments in utilizing Mexican workers. Yet, there has not been a corresponding interest in providing Mexican workers the same opportunities that the immigrant workers had from Europe to remain and to settle in the country, and this policy, in effect, by extending employment to the Mexican workers of the United States without providing the legal machinery by which they could either adjust their status and become legal permanent residents, in effect, extended the border all the way to Mexico. We have the formal border, but in terms of our practices and historical interests in utilizing Mexican workers, this border has been very flexible.

Q. Dr. Cardenas, in the course of your work have you had an opportunity to observe whether or not this trend continues to the present day?

A. Well, in my last field work experience last month in El Paso I had an opportunity to visit the United States Border Patrol office and talked to some of the border patrolmen, as well as to visit the border line right outside the metropolitan area of El Paso, and I was surprised to see the same practices being continued in the sense that we saw people walking across the border, walking across the river, which is only about eight feet wide and very shallow, coming in and hitchhiking into the city to work. We saw on one occasion up to twelve persons walking with virtually no efforts to apprehend them, no border patrolmen in the area.

In effect, the same practices are being continued today as they were in the 1969-1970-'71 period in which we did our field work. We had the same observations at that time. I was particularly struck in light of the attention given to the magnitude of the problem, allegedly stated, with regard to the influx of the illegal aliens that there was no diligent efforts to control the border.

Q. Have you observed in your work a history of discrimination against Mexican aliens in activities with Mexican aliens?

A. There have been many references to this in the literature, and the field work that we did in the 1969-1970 period – I think to put it into perspective and to talk about discrimination against Mexican aliens, Mexican Nationals, we have to really look at the relationship between all Mexicans in the United States and other groups, and, particularly, what we call Anglos, and the State of Texas, I think, perhaps has the most notorious history in adverse relationships between these two groups, this history starting from the Texas Revolution, the hostility generated after the Texas Revolution, United States and Mexican War that was settled in 1948, the hostilities that generated after

that war between Anglos and Mexicans in the country, the various border skirmishes that have developed and continued up to 1912, the lynchings of Mexicans in the State of Texas.

I think – I don't think – I know there are more lynchings, in the State of Texas of Mexicans than anywhere else in the country. This is, I think, illustrative of that adverse kind of relationship and, in particular, Mexican Nationals being more vulnerable, particularly if they have no papers, more susceptible to this type of treatment, but from their perspective and from the work that we are able to uncover most of their complaints centered around loss of wages, where workers would be hired by employers to work in agriculture and in some cases industry, were brought in to work for two or three weeks, and at the time when they were supposed to be paid, the employers all of a sudden discovered that they had Mexican Nationals, so the would call the Border Patrol and have them rounded up. Well, in the large-scale mass-type roundups there was very little provision to collect back wages and personal belongings of these undocumented workers, and this has been the principal complaint that the Mexican Consuls have received and the same types of complaints that we were told by the workers, particularly in the detention centers, so that has been their major criticism that they related to us.

Q. So you in your work have had an opportunity to discuss complaints with detained Mexican aliens?

A. Yes.

Q. Based on your research, could you describe the general characteristics of the undocumented Mexican population in the State of Texas?

A. The undocumented Mexican population in the State of Texas from the work that we did in 1969-1970 were very similar to the characteristics of legal Mexican immigrants in that they are generally young, single workers, former landless agricultural workers in Mexico. They are generally here on their own. If they are married, and spouses do not normally accompany them in their migration to the United States, their children also, if they have children, in many cases some of the children being born in the United States, if their spouses happen to be with them, generally were not with the immigrant workers in the studies that we did in the 1960-'70 period, and, more recently, I had an opportunity to study the influx of legal emigrants from Cuba and Mexico with Alexandro Portes, and the data that we have been looking at also shows that most of the workers who are here were formerly illegal aliens. It was something very significant in our work, like fifty or sixty percent of the sample had previous residence in the United States prior to legal admission.

In fifty-one percent of the sample their eldest child had been born in the United States, so many of these new legal immigrants are former illegal aliens, undocumented workers, and, therefore, many of them have children who were born here.

Q. In your work what have you found to be the primary motivation for Mexican migration to the United States?

A. Primarily economic, the desire on the part of the U.S. employers to extend employment opportunities to Mexican workers, the efforts of the United States government to realize this desire in the various programs which I outlined in the first part of my testimony, and the absolute destitute situation that the Mexican workers find themselves in in Mexico.

In many cases the illegal today were the children of the *braceros* of yesterday, and this is what I mean in terms of that dependency that has been established to work in the United States.

Now, there's never or rarely a situation where the needs of the Mexican workers are compatible with the needs of the U.S. immigration policy. At times when it is conducive to our interests to be permissive regarding the border for the influx of Mexican workers, and then when it's to our interest to close those borders, the Mexican worker is still in need. Having worked here before, he has no alternative but to seek further employment in the United States, if possible.

Q. During the course of your work have you discovered whether or not a significant portion of the undocumented Mexican alien population avails itself of the social services available in the United States?

A. Yes. The work that I have encountered, the available evidence that I have been able to locate, in three studies, in particular, one by Wayne Cornelius, which is a study in Jalisco, Mexico, in the various communities, asking the sample of residents questions regarding the migration history to the United States, and questions were asked regarding the use of services in the United States, and most of the aliens reported that they did not utilize formal resources. Most of them reported that they did not utilize, for example, the health clinics and hospital facilities in the United States. Most of them reported that they did not utilize legal services, and the conclusion that Cornelius drew on the basis of his study was that they were not utilizing the government benefit programs or formal services.

In our studies of 1969-'70 we found that aliens, in particular, undocumented workers have a tremendous

fear of institutions because of the possibilities of them being identified as illegal aliens, and they preferred not to use these services. On the other hand, there is not a tradition in Mexico in terms of welfare, in terms of the large-scale welfare programs we have in the United States, so, therefore, undocumented workers aren't orientated (sic) towards welfare-type programs that might be, for example, comparable to native Americans who were born here and have grown up utilizing U.S. institutions.

The other study by Vic Villapondo in San Diego under the County Board of Supervisors, they did a study on the use of formal services there and found essentially the same thing that Cornelius found, that they were not utilizing these services

The other study by Jorge Bustamante in 1973 also reported that these are returned immigrants who had been deported or otherwise removed from the United States. He interviewed them after they were returned to Mexico and picked out a sample of a hundred nineteen persons, and on the basis of interviewing these returnees found that ninety-six percent of them did not utilize the services, the health services, the clinics or hospitals.

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Q. What about the mobility of these individuals?

A. It depends. On the border in the areas that *are contiguous, that is, between the United States and Mexico, there is a great deal of what we call border running, people just on the basis of employment or further reasons would continually cross the border and return.*

Q. Day laborers coming over for the day?

A. Day laborers, or they could even be perhaps longer time entrants in that they might work in an area close to the border for a period of two or three weeks and return back or for a period of two or three months, but the further we got from the border, the greater likelihood there is for the workers to remain on a more continuous basis in the United States, that is, in terms of continuous residence. I think this is true, for example, between McAllen, San Antonio, Dallas, Chicago. The further away we get from the border, the more we're talking about the more integrated type immigrant worker.

Q. Are a great number of these workers the type that follow seasonal work, be that work in the fields or harvesting or something like this?

A. In the past that has been the experience. The book that I referred to on *Los Mojados* primarily dealt with agricultural migration. That had been the major work in which workers had been recruited. Since 1970 there's been a shift – agriculture is still important, but more workers also are moving into other areas of non-agriculture pursuits.

Q. What would you estimate those percentages to be?

A. I would still think that perhaps seventy percent are still in agricultural pursuits. That's just a guess.

Q. I understand. Based on that seventy percent, would you say that seventy percent of the illegal aliens that come within the borders of the United States are on a constant move?

A. Well, if they're in the State of Texas, they would move with the crops, if that's where they are at, but if they're on the border or in South Texas, their mobility is not that great; that is, they pretty much stay along

areas that are contiguous to the border. That's where the majority of agricultural workers are at that come into the State of Texas. These are, in effect, very often border running people too, so if we're talking about mobility, we're talking about constant crossing of the border.

Outside of South Texas I think this number rapidly declines, since the number who are in agriculture is opposed, I would say, to a more stable type of migrant.

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Q. In your research have you encountered instances where maybe the father or a head of a family would come into the country and work for a period of weeks or maybe months and *then have the money to bring his family into the country?*

A. *There's been many reported instances where that's occurred, yes. I don't have any data to show to what extent that is the case,* that is, on the basis of the studies we have done. My feeling is that it still continues. My suspicion is that it is not very great in terms of the overall number of immigrants who are in this country and working. The general pattern has been that even when they legalize the status, they still have the tendency to bring their spouses to the country.

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Q. In regard to the fifty-one percent factor you spoke of who were formerly illegal aliens and are now legal aliens —.

A. Yes.

Q. -- these were aliens who had become legally admitted who were not under some special work permit in terms that they had a particular skill, like they were a doctor, that allowed them to come into the country. Isn't that right?

A. Right.

Q. So they were just your average worker who had become a legal entrant?

A. Most of them had adjusted their status, or perhaps were on waiting lists and had visas or on the list for visas with applications and had been in the country working, and when the time for the visa was granted, they just picked them up and came across legally. We don't have a great deal of information because of the nature of the segment in which we did the surveys, and we didn't have time to probe, you know, and get into those types of questions.

Q. Well, all in all, is it fair to say that the main reason that the illegal Mexican alien is present in Texas is for jobs.

Q. THE COURT: Is what?

Q. For jobs, for money, better salary?

A. Yes, they are here because they are in need. They are poor in Mexico and for years there has been a pattern where American employers -- as I pointed out, the American government has supported immigration of Mexican workers and extended employment opportunities for the Mexican worker, and they, in effect, have created a dependency situation where workers now are dependent upon employment in the United States for their livelihood. This may not have been the case if

we had a different policy years back. From my perspective and the conclusions that I have drawn on this question, had it not been in our interest to utilize Mexican workers, we would not have the same problem that we do have today regarding the undocumented worker. In effect, I argue that the decisions made in Washington are more important in explaining the migration and status of Mexican workers in the United States today than the decisions made in Mexico City, that is, in terms of our policy, our permissiveness and our desire to utilize Mexican workers in the United States.

In effect, I assign the major responsibility to the United States. There's a tremendous amount of poverty in the world. Yet, this poverty doesn't always affect us, because we don't let it affect us, but to the extent that Mexican workers were utilized and were easily exploitable, to that extent, very few people were concerned about the migration and entrance to this country.

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Q. I may have asked you this, but in the thirty percent that you said are shifting to cities, don't they, while they are going to where jobs are available, don't they generally try to get into the Mexican-American enclave? Isn't that where they most often are found where there's a legal Mexican-American?

A. Yes, we call that in the cluster hypothesis. It may not be just on the basis of nationality. It could be on the basis of language. *Where there's a Spanish-speaking community, this would be a place where, again, given the kinship ties, perhaps, or informal networks, this is the place that they would choose to reside and very often might be the only place they could afford to live.*

The Mexican-American is generally situated in poor areas of town, and this might be a place where, really, there's no alternative but to live in that poor area.

TESTIMONY OF MARION HOUSTON

[page 60]

Q. Somewhat summarizing your testimony, I gather that you would have noticed with the previous witness that at the present time there is really no solid, adequate, scientifically valid basis for making any real estimates as the number of illegals that are in the United States or in Texas.

A. I was going to get to one that's just come out, O.K.? Although it's a very crude estimate, it is a scientific estimate. It is based on good, scientific methodology, data different from apprehension data. I have not analyzed it fully. It's a very heavily statistically oriented sort of argument, but in the last couple of months Lancaster and Scheurer of H.E.W. and Social Security Administration have done an estimate of the number of illegal aliens between the ages of eighteen and forty-four in April of 1973, all right? This is based on the 1973 C.P.S. – that's current population survey, and I.R.S., Internal Revenue Service, and Social Security Administration exact-matched study on the basis of their analysis of that exact-matched study. They have come up with an estimate of 3.9 million illegal aliens in the United States between the ages of eighteen and forty-four in April of 1973.

Now, they offer that as a crude estimate, not of itself, but that is the best piece of work that's been done on this question at this time.

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Q. Could you briefly describe the characteristics of the Mexican illegal immigrant?

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A. Fortunately, the data on characteristics on illegal aliens are much more reliable and, indeed, increasing in the last couple of years than any kind of data on either the numbers or geographical distribution of illegal immigrants. There have been a number of empirical studies. None of them are definative. All of them, however, show a remarkable degree of similarity in their findings. Some more, for example, this 1969 study -- the Mexican government has done two studies of apprehended illegal aliens, one in 1972 and one in 1974. The major piece of work thus far, although there will be two new studies coming out in the next year, which is the North-Houston study of seven hundred ninety-three apprehended illegal aliens, which was done in May of 1975, and I would use this as the basis.

This gives us the most of the data that we now have that is available on the subject---.

Q. If I may interrupt---.

A. Yes.

Q. ---before you go to that, you were a co-author of the North-Houston study?

A. Yes.

Q. Please proceed.

A. We interviewed seven hundred ninety-three illegal aliens in 1975. All of them had been apprehended by the Immigration Service. All of them were interviewed only if they had worked for two weeks in the United States labor market, so our population by definition were reflected as workers. Our findings are similar to other findings on Mexican illegals. Unlike other surveys on Mexican illegals, we had both four hundred eighty-one Mexican respondents. We also had two hundred thirty-seven non-Mexican Western Hemisphere respondents, and we also looked at seventy-five Eastern Hemisphere respondents, and also looked at seventy-five Eastern Hemisphere respondents, and we found the characteristics of these three different groups very similar in recent origin, Mexico, non-Mexico, Western Hemisphere and Eastern Hemisphere, very different in their term of characteristics, less different, however, in terms of their run of the labor market.

I will now talk about the Mexican illegal alone.

Q. Please do.

A. Our respondents are cast more in the young, the average age of 28.5. That's consistent in all empirical studies of illegal aliens, primarily Mexican. Most of our respondents were male, more than ninety percent. That's likewise consistent with other studies. That's likewise likely to be an overestimate, because most studies are apprehended illegals, and the Immigration Service prefers to insure apprehended males. There's likely to be an overcount on that.

Q. Excuse me —.

A. Yes.

Q. The general conclusions are that a vast majority are males?

A. The great majority, in fact, it's so close that almost all. That's the distinction.

Q. Thank you.

A. That would be particularly true of Mexican illegals, because Mexican illegals are non-like un-Mexican illegals in that they tend to have entered the nation without documentation, which means that they have to specifically cross the border in a way that tends to select out women and, certainly, children, so that your Mexican illegal is more than likely any other group to be male.

I think that the majority of the Mexican aliens, less than fifty percent, were not married. The majority were, similarly, not likely to have children. They were almost invariably economically motivated. Their chief reason for coming to the United States was to find work, get a better wage. A Mexican illegal alien had a very high dependency ratio at home. They were supporting 5.4 dependents in their country of origin, which was quite different from Western or Eastern Hemisphere illegals, who were supporting only 3.6 or 1.8. Our Mexican illegal alien, like all other illegal aleins that have been sampled, were very badly educated and were unskilled workers in their country of origin. Further, less than a quarter of the Mexican illegal aliens of the sample spoke English, and, again, that's consistent with all the work on the subject.

THE COURT: Less than a quarter?

THE WITNESS: Yes, uh-huh.

A. Those are our chief findings on Mexican illegal aliens and are completely congruent with other data on the subject. There are two other characteristics of Mexican illegal aliens that may be useful to point out, and that is that they are voluntary migrants. That is, they're free migrants and, like all free migrants, they are generally acknowledged to be self-selected, and, therefore, the best and the brightest of any community, very typical of all free migration movements, of which the illegal migration is a new species today.

Q. Could you estimate the percentage of undocumented aliens who bring their families with them to the United States?

A. There are really no data on that specific question, whether or not an illegal alien brings his family. That's unlikely to be the case of the undocumented worker who would be crossing the border physically because of the method of travel. Your visa abuser who tends very strongly to be the non-Mexican illegal, would be more likely to bring family. That in itself, however, is very unlikely, given the fact that most visa abusers are tourists, and tourists are screened for the genuineness of their desire to tour, rather than working in the United States. It's unlikely for the State Department to issue a visa to an entire family of a potential illegal alien, so I would estimate in the area of speculation in terms of their function and in terms of the process of their admission, there would be very few illegal aliens who would bring their families – this would be a flow figure – who would bring their families to the United States.

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Q. Were you able to in your studies develop any average weekly wages that Mexican workers were paid and do any data analysis concerning any number of hours that they labored for those wages?

A. I don't have any weekly wage data for Mexicans besides the general $106.00 weekly wage. We compared our illegal workers with comparably employed U.S. workers, but we did not do it on the region of origin basis. What we found when we compared the weekly wage of the illegal respondents with the weekly wage which is available to comparably employed production non-supervisory workers, as the Bureau of Labor statistics calls it, we found that our illegals earned a weekly wage of $117.00, which is roughly two-thirds the wage of comparably employed U.S. production and non-supervisory workers of $160.00.

Although our illegal respondents earned only two-thirds the wage of the U.S. workers comparable employed, they worked an average of 8.6 hours more per week than the U.S. workers.

Q. Have you had any occasion to study whether Mexican illegal aliens pay Social Security and income tax?

A. We have some data on that subject. We found that out group of illegal aliens who were workers, that more than three quarters had their Social Security taxes withheld. Almost three quarters had their federal taxes withheld, that a surprising forty-four percent had hospitalization withheld, which means that forty-four percent were in some sense integrated into the economic mainstream. We found that 31.5 percent of the sample filed federal tax returns. There were very few differences between the Mexicans and non-Mexicans on this. However, we found a very close correlation between employer exploitation and whether or not our sample illegal aliens paid taxes, *i.e.*, had them withheld.

We found about a quarter of our sample – talking about the whole sample now – were not paid mini-

mum wage, *i.e.*, they had been subjected to illegal wages. We found that had been most likely to have happened in the border counties or in the Southwest. The Southwest were three or four times more likely than any other region in the nation to have their illegals to report a legal wage. To the degree of which illegal aliens in our sample reported substandard, *i.e.*, illegal wages and working conditions, they also tended to report that they did not have their Social Security taxes or federal taxes withheld by their employer.

Q. Did you have any opportunity to evaluate data from the sample of illegal aliens who had been employed in San Antonio, concerning their tax payment?

A. Yes, to our surprise, San Antonio was the highest of any – we analyzed our data in terms of cities and metropolitan areas. San Antonio reported the highest incidence of Social Security deductions than any other city. New York was the lowest in the U.S. with seventy-four percent.

THE COURT: Let me see if I understand what you said. They do report more in San Antonio?

THE WITNESS: To our surprise, sir.

THE COURT: Than in New York City?

THE WITNESS: Yes.

A. I think the reason for this was – this is speculation – that we had a fair number of Eastern Hemisphere dishwashers, restaurant workers in New York City. Restaurant workers tend to be an underground labor market, where you have illegal wages and working conditions, and, therefore, they tend not to have their Social Security withheld. One benefit illegal aliens

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Q. Do you have a figure on how many illegal aliens, particularly Mexican Americans or from Mexico, that are in the State of Texas?

A. I could give you a number if you want it. I would not wish it to be qualified as scientifically respectable, but I fooled around with some numbers the last couple of days, and I am very conservative on the question of the number of aliens in the United States, particularly, when you think about stock and flow. My own personal feeling, and I am sticking up my finger, you know, testing the wind, on this kind of thing. I would not want this to be regarded as anything except a reasoned opinion. I hope it is reasonable. It is certainly not scientifically grounded. My own estimate would fall in the range of four million illegal aliens. That's a little bit less than the unofficial Immigration Service estimate that's been included in analyzing the funding needed to implement the Carter Proposal. That's a very recent estimate on the part of the Immigration Service. They are now estimating if the Carter Proposal goes through that there would be about five million illegal aliens in the nation who would be eligible for temporary adjustment of status and at three-quarters of a million who would be eligible for permanent resident alien status. I think that's a little high myself. I am much more moved by Elwood Stodard, an anthropologist at the University of Texas, who has come up with an estimate, and, again, that in itself is a speculative sort of estimate, but to me it sounds right given other calculations. He estimates that between 2.3 million and 3.1 million illegal Mexican aliens in the U.S. that would put the median at about 2.7. I think that's probably a fairly reasonable estimate of the number of illegal aliens in a stock figure in the United States at the time.

THE COURT: He had asked specifically about the State of Texas.

THE WITNESS: Yeah.

A. Well, I can't get to the State of Texas until I get the national estimate. I'm giving you the national now, and I'll try to give you a reason how I come up with a figure for Texas.

Let's take that you find 2.7 million as your total national population of illegal Mexicans in the country now, O.K.?

If you do that, and if you assume that illegal aliens--like illegal Mexican aliens are like legal Mexican aliens in the nation, that is, in their geographical distribution, which is the most difficult kind of characteristic to determine, you can get a sort of handle on numbers at this point--people are beginning to--but when it gets to the next question, which is, "Where are they?" which is a very central question, obviously, for public policy, it becomes much more difficult. What I'm going to do is that I'm going to offer as a hypothesis a notion, and it is a reasonable notion, that illegal aliens tend to settle where legal aliens are. That is, the geographical distribution of legal Mexican aliens. If that is the case, then it follows that one-quarter of an illegal Mexican aliens are in the State of Texas, one-half in the State of California with one fourth in the State of Texas. The remaining quarter would be sprinkled in Arizona, the Midwest and Southwest.

If you're going to grant me all these assumptions, and there are many people who would take exception to each one of them, then you would come up with the figure, If I can find it--I think it's six hundred thousand illegal aliens in the State of Texas. That's not quite right.

Q. Are you taking your assumption of 2.7 million and dividing by four?

A. Right, I am. It's a very straightforward sort of estimate. O.K., yeah, six hundred seventy-five thousand.

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MR. HARDY: I would like a statistical breakdown of the illegal immigrant that she interviewed in Houston. I don't believe on direct that they came out with how many single or how many had families here or how many children were involved.

A. My name's Houston. I don't believe that anybody--.

THE COURT: She indicated that fifty percent of them, if I recall it, were not married, if I got her figures right.

A. Less than fifty percent of our Mexican illegal aliens were married, O.K.? 11.1 of our Mexican legal respondents (sic) reported that they had spouses in the United States. That's slightly more than ten percent reported that they had spouses in the United States. Half of the Mexican legal aliens reporting that they had spouses in the United States, also reported that they were green card carriers. Excuse me. Green card carriers are permanent resident aliens or resident U.S. citizens. That means that apparently about five percent had illegal alien spouses.

Similarly with the case of the children -- again, we're talking about Mexicans -- less than half reported children. Less than ten percent reported that they had children living in the United

States. More than ten percent reported that they had U.S.-born children, and 2.7 percent, that is, thirteen Mexican respondents, reported that they had one or more children in the U.S. schools.

THE COURT: Two point what?

THE WITNESS: 2.7 percent, sir.

THE COURT: Thank you.

Q. The data that you base your research on, did this separate the child that is born in this country to illegal alien parents versus the child that was brought into the country?

A. Our data are only what our respondents reported on children. We did not interview children.

Q. Have you found this group of people that are coming into the country illegally have a tendency to move about and not stay stationary for any length of time?

A. Well, the illegals in our sample had been in the United States for an average of 2.5 years.

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Q. When this group of people come into the United States, do they normally only look to the job opportunities that are available to them here, compared to what they have in their home country?

A. The outstanding motivation for illegal immigration today is better work and higher salary. It's a worker migration.

Q. Based on your studies and your experience, do you have an opinion whether or not education being offered to these people would be an incentive to come to this country?

A. Education offered to whom, sir?

Q. The children.

A. Very few tend to bring children. It's a migration of young male workers who support a high number of people in their country of origin---.

Q. Excuse me. I have asked you just to assume, would this have an effect in yur opinion on people? Would more people bring their children to this country or the State of Texas, specifically, if more opportunities were available to their children?

A. If the United States offered education to illegal children, would illegal aliens bring their children to get education? Is that what you're asking?

Q. Yes.

A. I suppose so.

[page 87]

REDIRECT EXAMINATION

BY MR. ROOS:

Q. Just one question--you mentioned in your statistics that 2.7 percent, I believe, of the people you interviewed had children in schools.

A. Yes, that's correct.

Q. That does not distinguish between citizen children and non-citizen children, does it?

A. No, and since the number of respondents who reported U.S.-born children exceeded the number of respondents who reported children illegally in the United States, I would assume, although I do not know for certain, that most if not all of them are U.S.-born children.

TESTIMONY OF DR. ROBERT FIRESTINE

[page 90]

ROBERT FIRESTINE

a witness called by the plaintiffs, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. ROOS:

Q. Please state your full name for the record.

A. Robert Edward Firestine.

Q. And your present place of residence?

A. Richardson, Texas.

Q. Could you briefly state all degrees received from institutions of higher education and in what areas they were received?

A. Yes, I have a Bacholor's Degree in economics from Rensselaer Polytechnic Institute in 1963. I have a

Master's Degree in economics from Syracuse University in 1965 and then a Ph.D. in economics from Syracuse University in 1971.

Q. Could you briefly describe your major areas of specialization?

A. Yes. My major professional interests are in the area of educational finance, public finance, urban economic problems, and I have done some specialized work in declining enrollments in education.

Q. Could you briefly describe your employment experience as it reflects upon those specializations?

A. Yes. Most specifically, I was employed for three and a half years in the Syracuse University Research Corporation in the Educational Finance and Governance Center, where I was co-director. Most of that time involved studies of educational finance with respect to the federal government and state and local governments in the United States.

Prior to that I had done some teaching and some research at the University of Florida in economics, whicha had some relevance to educational finance, and since that time, that is, since September of 1975, I have been Associate Professor of Economics and Political Economy at the University of Texas Dallas, in which I have carried out some studies in urban problems with specific reference to educational finance and have done some professional writing in the area of educational finance and declining enrollments.

Q. Recognizing your vita is in evidence, and there's no need to go through all your publications, could you highlight several of the major publications dealing with school finance?

A. Yes, I think there are probably two areas that would be of interest. One, I have some extensive publications which have been in professional journals, as well as consultant reports that I wrote while I was employed by the Syracuse University Research Corporation under contract with the U.S. Department of Health, Education & Welfare. Oh, I don't know, but probably a dozen of those reports were submitted to H.E.W. in the area of educational finance.

In addition to that, there were consultant reports and other work that was done for the City of Los Angeles School District, the State of New York, the State of Ohio, and we had done some work in Texas, although I have no publications in that area.

In the area of declining enrollments, specifically, I have written a recent article in the Journal of Education Finance on the problem of declining enrollments in the United States.

MR. ROOS: We move that this witness be certified as an expert in school finance.

THE COURT: Very well. The motion is granted.

Q. Dr. Firestine, in the course of your studies have you had an opportunity to evaluate whether the reduction of students reduces the cost of a school district?

A. Yes, I have.

Q. Could you briefly describe the process of the interrelationship between studen reduction and cost reduction?

A. Yes, it's a surprising outcome that you come to, because the first expectation that one would have about the financial effect on the school district of enrollment

decline would be that you would anticipate that a decline inenrollments would seem to decrease the cost of school districts and, therefore, be a financial advantage to the school district. However, if you look at the situations facing almost any school district in the country, you will see that that's really not the case. It is the reverse of that, and that's the truth for two basic reasons.

One has to do with the structure of educational expenditures, the cost structure within individual districts, what I would call internal concerns, and the second has to do with some external concerns, specifically, related to the state aid structure within a given state.

First, with respect to the internal concerns -- oh, and I should add that in recognition of this problem of the financial bind that declining enrollments has put on local school districts, a number of states, not including Texas, have enacted special provisions in their state aid formulas to essentially ease the burden, the financial burden upon school districts of enrollment decline, but, as I say, Texas does not have so specific a provision as that.

Now, let me talk briefly, if I may, about two different kinds of concerns reflecting on this question. One is the internal problem, having to do with cost structure in a school district. Specifically, if you look at the major kinds of expenditures that school districts are required to support, I think it's safe to break those costs down into what I as an economist would prefer to call them relatively fixed and relatively variable costs, attempting to do tht in a way that would be consistent with the way we look at the private sector.

Within the fixed costs that a school district would have, the primary fixed cost would constitute admin-

istrative costs, cost of carrying on the administration of a school district, which totaled about fourteen percent in 1975-'76 statewide in Texas, and maintenance operation costs, which constituted about eleven percent in the same period, so together those are the two major items of budgetary costs, totaling about twenty-five percent of current operating expenditures on the average, which would be considered relatively fixed.

Now, let me explain why I say that. Just because the enrollment ina school district would decline by a moderate amount, and most of my comments would relate to that specific sort of concern -- we cannot presume that specific expenditures for maintenance operation and for administration would commensurately decline, that is, school buildings still have to be maintained in the usual way. Administrative responsibilities usually do not change whether or not there is a small decline in the enrollment being served by those maintenance and operation and administrative personnel. Certainly, purchase of supplies, et cetera, would not be meaningfully affected by that for those purposes, so even though enrollment declines proceeded at a relatively moderate rate, we would find that the cost of maintenance, operation and administration, in fact, would be relatively fixed.

Secondly, of course, if we're talking about expenditures for debt service or debt retirement, that would reflect expenditures in the past which were maintained and would be maintained over a continuing period of time, and enrollment declines, as they may proceed at a moderate level, would than also have no effect on reduction of debt service, so there are those three major areas of maintenance and operation, administration and debt service, which I would prefer to call relatively fixed levels of expenditures and unaffected then by declining enrollments.

The other area which I would treat more as a variable cost would be instructional expenditures per se. Specifically, we would anticipate at first glance that as numbers of students being instructed decline, we would be able to reduce the number of teaching personnel commensurately.

Now, there are a couple of problems with that having to do with the cost of instructional salaries. One is, of course, we can't simply expect a decline of a few students to lead to the termination of employment of a given teacher. That would only occur in situations where sufficiently large numbers of students were essentially not to be present to permit and entire class to be eliminated, and in that case perhaps the teacher's duties would be deemed unnecessry, but even in those conditions we have limitations that face local school districts with regard to tenure provisions and with regard to the desirability of maintaining teachers on the faculty, such that over a period of time, perhaps, attrition is generally the stronger reason for getting rid of teachers under enrollment declines than we would find the reduction of teachers by immediate termination, and even if personnel are to be fired in the face of an enrollment decline, the cheaper teachers, those with less experience and which are generally not in a tenured situation, would be released first, or perhaps, before that quite low-cost teacher aids would be released before a regular teacher would be released, so even if you look at it as approximately sixty-eight percent of current public school expenditures which are attitributable to what I would call relatively variable costs of instruction, even that sixty-eight percent of current public school expenditures which are attributable to what I would call relatively variable costs of instruction, even that sixty-eight percent is not easily susceptible to reduction in the face of enrollment declines and, certainly, the fixed costs that I maintained before are quite

resistant to reduction in the face of enrollment declines.

Q. Speaking now to instructional salaries and instructional services, that aspect, can one give any sort of a rough guideline as to the number of students one would have to exclude in a given school or in a given grade before you could even begin the process of winnowing out teachers and faculty members?

A. Yes, as I said, generally, you wouldn't be able to maintain any economies (sic) in the reduction, unless you were to eliminate approximately an entire class size, that is, twenty to thirty students at one given time and in a specific grade. If enrollment declines, as they generally do proceed, occur across a number of grades or occur over a period of time, then you've got modest declines throughout say an entire school plant or an entire school building, but only until the impact of those declines could be organized to be able to reduce and entire giben grade or given classroom, which would constitute a given grade or a specific teacher's responsibility over those students, then you would not be able to reduce the number of teachers dealing with those students. You would simply find dwindling class sizes throughout the school, even though the number of classroom teachers and the number of classrooms they supervise would probably be maintained at the same level, so during one year it would probably have to be a sizeable reduction of twenty or thirty at a given grade level.

Q. At a given school also?

A. Yes, right.

Q. Dr. Firestine, if the per-pupil expenditures in a given district were hypothetically $1,000.00, would it be fair to say that the exclusion of the student would save the district $1,000.00?

A. No, no, it would be much less than that.

Q. In fact, if I understand your testimony, the exclusion of certain students would have little, if any, impact on your costs which are fixed. Is that right?

A. That's correct.

Q. Dr. Firestine, are you familiar with the way the schools are financed in the State of Texas?

A. Yes, I am.

Q. Would you briefly describe the basic sources of financial aid to a school district and their relative percentages?

A. Well, if you look at the three major sources, they are, of course, the federal, state and local governments, and the proportions, I think, in the most current year would be about fifty-four percent from the state or through state aid, about thirty-eight percent from the local districts – this is an average figure, of course, across the state – and about eight percent from the federal government, so the majority would come from the state.

Q. Could you briefly describe the formulas that are utilized to distribute general state aid?

A. Yes. Now, I think the two major aspects of state aid that would be most relevant here really relate to external situations that I referred to earlier, that is, the Foundation Program, which provides the bulk of that general aid, and equalization aid, which is also distributed to school districts. The Foundation Program is based on a fairly complicated formula, which is quite difficult to go into briefly, but, essentially, it's a small distribution per student, that is, per student in aver-

age daily attendance. That's about $100.00 per student.

In addition to that, the major aspect of Foundation Program aid is based on a formula which accounts for the number of students in groups of grade levels, and the state's idea behind that is essentially to provide a minimum level of support to each district for each approximately twenty students that would require a teacher, so there is essentially within a Foundation Program a heavy involvement of the state to provide a basic salary level for teachers, in accordance with the scheme that the state mandates, which the school districts must follow.

Now, as long as a given school district levies the required tax rate to be participant in the Foundation Program, they fall into the schedule. They receive this allotment for personnel units which the state provides, and they also receive this additional approximately $100.00 per pupil amount, which together totaled the Foundation Program support.

Now, the equalization program support, which is a smaller level within the state, is based essentially on property wealth per A.D.A. or per average daily attendant student in school, and it is oriented primarily towards the relatively low wealth or poorer school districts in the state.

Q. Taking these basic sources of money, is it possible that the school district would los state funds if it excluded a student from school?

A. Yes. In both cases, as I have explained, with the Foundation Program, which is a complicated arrangement, certainly, there would be some reduction by reducing the number of average daily attendant pupils being counted. In equalization aid this would also occur because as numbers of students that were

counted in attendance in a school district were reduced, the school district would then appear to be more wealthy in terms of its property wealth per attending student. In that case the district, as it appeared to become more wealthy, even though the actual property value in the district had not changed, as the district appeared to become more wealthy on paper, it's actual equalization would thereby be reduced.

Q. So a law that excluded certain children from school would strike more strongly at a poorer school district because of the equalization aid formula than at a wealthier district?

A. That's true, yes.

Q. Given the funding formula based on students in attendance and given the intransigence of costs, is it possible that a state law that resulted in exclusion of certain students from school could result in placing a school district in a great financial squeeze than it was in before?

A. Yes, I think in general that would be true within the state and, certainly, it's true across the country. As we were to look more carefully at the situations of individual districts, we might want to ask the extent to which this would occur, and it's hard to generalize beyond the sorts of programs that we see in existence, that is, if we're operating from a relatively fixed scale of program, which we generally are under these conditions, then what you are suggesting would certainly occur, and the school district would be essentially worse off.

[page 105]

CROSS-EXAMINATION

BY MS. CARDWELL:

Q. Let me pose a hypothetical to you, Doctor. Are you familiar with the Houston Independent School District?

A. More or less.

Q. It's a rather large school district.

A. Yes.

Q. If say you added five thousand children to that school district in one fell swoop, who required special education in some areas, are you saying that Houston I.S.D. would make money or not be out any additional money on the basis of your figuring here?

A. Well, you know, this is one of the situations where we have to back off and say to answer this properly, we would have to look at some of the data that are involved, and I don't know (a) the structure of the state aid receipts that Houston I.S.D. receives, the number of students involved, although I know they are considerable, nor do I know the structure of the special educational needs that exist within the district in Houston relative to general educational expenditures. You referred to – I'm not sure of your exact words, but the sense I got was the students would have some sort of special needs which go beyond the kind of funding that I have outlined, and I have to know something about the extent of those needs and the extent to which those needs could not, in fact, be met by existing personnel or by existing programs that were already underway. If you could give me an

estimate of the percentage impact on the size of the student body of what that five thousand might be, that would even help me. Five thousand itself doesn't help me, unless I can related that to the total size of the student A.D.A. in Houston.

Q. Well, regardless of the special factors, it will cost more money for the state or Houston I.S.D. to educate five thousand additional students, would it not?

A. Well, the additional students coming in would, assuming five thousand in the district the size of Houston is a relatively incremental size, the cost would go up, but we have to remember that the distribution of aid and also the economies at scale (sic) and also the operating of classrooms would probably not raise the cost terribly, terribly much.

For instance, it doesn't cost you that much more in terms of actual expenditures to educate twenty-seven students in a classroom, as opposed to twenty-six. On the other hand, if we needed additional classrooms for specific educational purposes, which you are suggesting but aren't really outlining for me, then your cost might increase, but we would have to know something about the extent to which new kinds of classrooms might have to be formed.

Q. O.K., I take it that the figures you were giving Mr. Roos in terms of whether there would be a declining cost, or it would cost the school district no less do not take into account any special expenses or the building where it may be filled to capacity already, and adding twenty students may require an additional room. Nothing like that is taken into account in your general figures.

A. Well, to the extent that you would have to have additional capital expenditures or expansion of plant, if

that were the case, if there was, indeed, a large city school system like Houston, not very much available excess capacity in terms of classroom space, then if you had to go into a building program, there would be some additional cost, but I'm not sure if that would be the case or not without having more figures than I have.

Q. What if all the five thousand students we added to Houston I.S.D. needed bilingual education? Would that change your —?

A. I'm not sure, because I don't have figures in front of me about the costs of the bilingual program. I'm sorry.

[page 111]

Q. And they also deal with just the general increase or decrease of student populations, do they not? They don't take into account special problems.

A. No, I'm not trying to account for special student needs.

TESTIMONY OF
DR. JOSE CARDENAS

[page 116]

Q. Dr. Cardenas, have you had the opportunity to work in or with a school district of significant numbers of undocumented children?

A. Yes, sir, both as a profesional employee of the school district, as well as a consultant relationship with school systems.

Q. Could you sort of generally relate that experience?

A. Well, I was a teacher in the Laredo Public Schools where there were a large number of alien childen, both documented and undocumented, and then I was a teacher and administrator in the Edgewood School System in San Antonio, Texas, in which, again, there were many children that were alien. I have worked with superintendents and other staff of other school districts concerning the implementation of programs for alien children.

Q. Have you had the opportunity to observe the educational needs of these chidlren?

A. Yes, sir.

Q. Does the undocumented alien frequently need some form of bilingual instruction?

A. Very frequently the undocumented alien from Mexico and other non-English-speaking countries do require some form of bilingual education program.

Q. In having this need, does the undocumented alien differ from recent migrants who are legal?

A. They have many characteristics, such as language and cultural heritage that are very similar, requiring a similar school response.

Q. In having the need for bilingual education and culturally compatible programs and other things of that sort, does this child differ from most other children of Mexican ancestry growing up in Texas?

A. The characteristics are very similar, and the educational needs are also similar.

Q. Do most school districts in Texas, in fact, have a minimally adequate bilingual program?

A. No, sir.

Q. If they did have such programs, should there be any additional problems caused by having to deal with the illegal child or the undocumented child?

A. No, sir, assuming the school district had an adequate program in bilingual education and multi-cultural education, there would be no additional problems in dealing with the alien child. On the contrary, I think there would be less problems in dealing with the alien child.

[page 120]

Q. Are there federal programs available for bilingual education?

A. Yes, sir, there are many federal programs that provide money to Texas schools providing bilingual education, including Title VII of the Elementary-Secondary Education Act, Title I of the same Act, the Right-to-Read Program, Follow-Through Program, the E.S.A.A. legislation and other governmental grants that are available and are being utilized in Texas schools for bilingual education.

THE COURT: What is this E.S.A. (sic)?

THE WITNESS: E.S.A.A. is Emergency School Assistance Act, the desegregation funds.

Q. Apart from bilingual programming, do illegal children have any other educational needs that need to be addressed?

A. Would you repeat the question, please?

Q. Apart from bilingual programming, do illegal children as a class alone, as contrasted with legal children or citizen children, do illegal children have any other unique educational needs?

A. Depending on the grade level at which they transfer to an American school, they may have minimal types of educational needs. Most of it, I think, would be language-cultural-oriented, and by your term, bilingual education, if you refer to a bilingual multi-cultural program, there would be very little, and those only for children that transfer at a rather advanced stage and have not had American Social Studies, Texas Government and so forth.

Q. Have you had any opportunity to observe the level of educational preparation of children coming in from Mexico at upper age limits?

A. Yes, sir, I have had many interactions with children from upper age limits.

Q. Could you describe any common observations that one could make about the educational preparation of these children?

A. It has been our experience that in the education of alien children they tend to perform at levels much higher than American-born minority children. In general, they perform better than American-born and race minority children.

[page 123]

Q. From your observations and discussions with these people what are the primary problems caused by this migration into the area?

A. The migration of alien children, undocumented alien

children, creates a problem that in the State of Texas, unlike most of the other states of the Union, there's no provision for a capital outlay cost out of the state funding for education. Therefore, all funding of education has to be carried out -- and construction has to be carried out at the local level. Many of the border area school systems are relatively poor school districts, and without the equalizing effect of a state program of per-capita outlay, the whole cost creates an economic imposition on the school district. In general, they have to provide at local expense the capital outlay facilities for the implementation of educational programs.

[page 128]

Q. Dr. Cardenas, for how many years approximately have you been involved with educating children?

A. About twenty-seven and a half years, sir.

Q. Have you made any conclusions about the consequencies to a child of the denial of an education?

A. Yes, sir.

Q. Could you briefly describe what your conclusions are as an educator of the exclusion of a child in the United States today from an education?

A. I think that the exclusion of a child from education locks the child into a life of poverty. Very frequently the unavailability of upward mobility leads to frustration. In some cases it leads even to socially undesirable behavior. I think that a person that does not have an education in the highly technological era in which we live would be at a disadvantage in competing for employment and would tend to be unemployed or underemployed. I think that they would have a hard

time achieving upward mobility. In general, it would be a very detrimental and unsatisfactory life for an individual.

Q. Are these consequences more or less for a child of a Mexican background growing up in the State of Texas.

A. I would think that they would be much more severe for a poor child of a Mexican-American background in Texas.

Q. Will you briefly describe why that is so?

A. Well, I think that a child from an affluent family may have the resources for providing employment either with the financial resources available to the family or else be able to move into some kind of position that would be not available to a person that would come from a poor background. Mexican American, because Mexican Americans are more systematically excluded from the higher-paying positions in most areas of Texas employment, and Texas, because I think that Texas, as described earlier by another witness, the ethnic or racial strife in Texas is, perhaps, more acute than it has been on other states, so, in general, a poor Mexican American in Texas would be very severely hampered by the lack of an education.

Q. In the course of administering school districts and in the course of observing school districts have you had an opportunity to observe whether there are substantial numbers of children who were previously here illegally who have legalized their status and become legal resident aliens?

A. As an administrator and teacher, yes, I have had children in my care that were here illegally and legalized their status and stayed in the country.

FURTHER CROSS-EXAMINATION

BY MS. CARDWELL:

Q. When did Mr. Roos or Mr. Daves contact you about testifying in this case?

MR. ROOS: We object to that, Your Honor. I don't see any relevance to that whatsoever.

THE COURT: The objection is overruled.

A. I really don't know. I have been working with MALDEF for at least four or five years in cases.

[page 138]

Q. Do you testify for MALDEF, or have you testified for them before?

A. Yes, ma'am.

Q. And you do that fairly often?

A. Yes, ma'am.

TESTIMONY OF DICK LINDSAY

[page 144]

Q. If you excluded say one child from the Tyler Independent School District, would your costs go down?

A. That would be hard to determine, but probably not.

Q. It would take a fairly substantial number of students to exclude before, in fact, your costs would go down ordinarily. Isn't that the case?

A. Yes, sir, I think it would determine in our case what particular school this decrease happened to be in where the decrease would take place in the district.

Q. You would, in fact, need a fairly significant number of students in a particular given grade or a given school before you could produce any savings by excluding children from school, would you not?

A. Yes, sir.

Q. Even if you were able to reduce – get some savings by doing that, you would still have certain fixed costs, such as debt maintenance and other sorts of maintenance costs that would remain, irrespective of how many students you excluded from the school, would you not?

A. Yes, sir. Debt maintenance, now, is not a part of the general operating budget.

Q. But maintenance costs and other sorts of costs would remain steady, would they not?

A. Yes.

TESTIMONY OF MR. PLYLER

[page 154]

REDIRECT EXAMINATION

BY MR. ROOS:

Q. Mr. Plyler, it's not your position that bilingual education is a bad thing, is it?

A. Oh, no; oh, no.

Q. It's a desirable thing —?

A. That's why we have three teachers when we're really not required to have three, trying to meet the needs of the youngsters.

Q. So that in fact, while you might have to buttress up your program with new undocumented children who have these needs, it's not fair to characterize that having these children will trigger your obligation to comply with the law, is it?

A. Mr. Roos, I mention this, because as we go under the state law, then there are so many guidelines, reports and voluminous reports, testing and evaluation and so on that take so much time, we are providing the program as outlined by the state, yet, without the necessity of having to go through all of their reporting procedures.

Q. So what you would like to be able to do is to provide bilingual programming to everyone who needs it without the paper work?

A. That's correct; that's correct.

Q. If you were to hire new teachers, you would get a certain amount of money from the state, would you not, per —?

A. The state assigns personnel based on A.D.A., not based on ethnicity of the district, of course.

Q. But if you have additional A.D.A., which means students additionally, then you would get additional funds, would you not?

A. Additional teachers assigned, plus M. & O. money. That's correct.

THE COURT: M. & O.?

THE WITNESS: Maintenance and operation, Your Honor.

Q. Isn't there a way the state funding, and I realize it's very complicated, and I don't pretend to understand it thoroughly myself, but if, indeed, you increase by something like twenty students, you get money for one teacher or something similar in the formula?

A. It's based on a grading scale, depending on grade levels, yes, sir.

MR. ROOS: Thank you.

[page 158]

Q. I wasn't quite sure how you deal with students who are in need of bilingual education now, in other words, how is that function handled in the school system?

A. They are provided special instruction through our Title I program, which does not eliminate those youngsters from that program. We have worked with these youngsters for several years through these programs by having small groups coming in with a bilingual teacher. As you know, they're taught in Spanish, their home language, first, and then as soon as we can get them in the English language, then we, of course, begin to instruct them in English, because we feel tht it is to the youngster's advantage to master English as soon as possible. We find that it is much easier to master a language at a younger age than it is after they get in the upper elementary school, so these teachers work with these youngsters in small groups, instructing them in English and trying to bring them – or in the Spanish in trying to bring them into English as soon as possible with flash cards and various

other types of equipment, instructional supplies that we have.

Q. Are these Title I teachers?

A. Title I teachers and regular teachers. We have one title I teacher who is bilingual and two regular teachers.

Q. What is the goal of the bilingual education program?

A. It's an attempt to provide a setting for Spanish-speaking youngsters in order to provide them with a background that they can make progress in the schools of the United States, since most of our materials are printed in English.

Q. Does it have any goals related to Anglo – English-speaking students.?

A. Yes, I think there are advantages there for those Anglo youngsters who are involved in those classes with alien youngsters. As the teachers work with those, I think the Anglos receive benefits from the culture discussed and the language which is spoken.

STATE DEFENDANTS' OPENING STATEMENT

MS. CARDWELL: Basically, what we will attempt to show or what we will show is the impact on the educational system that it impacts to the detriment of the citizen, the legally admitted child, particularly in the border areas, and the areas in which you find large Mexican-American enclaves, which Tyler is not one of those areas. That's why you don't see the impact from Tyler lik eyou see in the Houston I.S.D., Brownsville, San Antonio, Eagle Pass, Abilene – different places around the state where there are Mexican-American enclaves, mostly the border areas and up I-35 as that is the pattern of migration that th illegal alien follows.

I think our testimony will be somewhat shortened, because we were not presented with testimony on preemption, which we had planned originally (words unintelligible to reporter), not as regards to status by plaintiffs' case already, so what we will attempt to show is that there is deterimental impact on the other students due to cost factors. There are cost factors which fall outside the average daily attendance costs in terms of lost textbooks, removed textbooks, problems you would not have with the average student.

TESTIMONY OF THOMAS ANDERSON

[page 170]

Q. As a part of your work at T.E.A. have you compiled statistics concerning the number of Mexican alien students in Texas schools?

A. We have.

Q. Have you compiled those statistics for '75-'76 and for '76-'77?

A. We have.

Q. Could you tell the court, please, what the total enrollment is during the current year in school?

A. In school enrollment for the '76-'77 school year was 2,239,000.

Q. And what portion of that was Mexican alien immigrants?

A. 51,239 or approximately that number.

Q. Do you recall the statistics for the current year?

A. The statistics I gave you were the statistics for the past year. The statistics for the previous year, for the '75-'76 school year, were the two years that we compiled. We do not have the statistics for this current year that we are in now.

[page 172]

Q. What did you say those surveys showed in terms of growth or increased enrollment of Mexican alien immigration in the schools?

A. This survey that I just spoke of indicated that in the State of Texas for the '75-'76 school year there were 2,218,000 total enrolled. Of that 44,799 of that total enrollment were immigrant alien students born in Mexico, which is 1.59 percent of the total statewide enrollment. The following year, or 1976-'77, as of January the same survey was taken in all school distrcits which you handed me, the second survey. This showed that there were 2,239,000 students enrolled in Texas schools. 51,348 of those were alien immigrant children born in Mexico, which is 1.8 percent of the total enrollment, showing a growth from 1.59 to 1.8 percent total enrollment, showing a growth of over 6,500 students from Mexico in the schools from the '75-'76 to the '76-'77 school year.

Q. 6,500?

A. Yes, ma'am, in excess of 6,500.

[page 184]

Q. Thank you, sir. Now, with respect to Title I funds, I'm going to give you some figures in terms of dollar amounts received by the State of Texas over the course of the years, and I would like for you to tell me

if these conform to what you believe the dollar amounts received in the State of Texas are.

For fiscal year 1970 the state received $75,601,664.00. Does that sound like the approximate amount?

A. I would be unable to give you an exact dollar figure, but that's approximate.

Q. And in 1975 the State of Texas – and this is the total State of Texas – received $123,562,744.00. Does that sound right?

(REPORTER'S NOTE: There was no audible response from the witness.)

THE COURT: Answer for the record.

A. Yes, sir.

Q. And for the year 1977 – I guess this would be a projection or whatnot or request, or maybe it's received. I don't know – $147,992,810.00. Does that sound like the correct amount that the State of Texas either has applied for or has received?

A. When you talk about Title I – may I ask a question here? Are you talking about the inclusion of the Title I migrant and the Title I regular?

Q. I believe that's included.

A. Yes, sir, it sounds —.

Q. So, in fact, it has increased almost double in the last seven years, the total allotment to the State of Texas. Is that correct?

A. Yes, sir, it has increased.

THE COURT: Has it increased in approximately the proportion that counsel has mentioned?

THE WITNESS: Yes, sir.

TESTIMONY OF ROLLAND HESTON

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Q. Would you state your name and place of residence for the court, please?

A. My name is Rolland W. Heston. I live at 3001 Teague, Houston, Texas.

Q. Are you appearing here today pursuant to a subpoena, Mr. Heston?

A. Excuse me. My hearing isn't as good as it used to be, and I didn't hear her.

THE COURT: She's asking if you are here pursuant to a subpoena.

THE WITNESS: Yes.

Q. What is your present employment, Mr. Heston?

A. I am the District Director of the Houston District of the Immigration and Naturalization Service.

Q. How long have you been with the Immigration and Naturalization Service?

A. Thirty-six years.

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A. Well, President Carter's proposal was just that, a proposal. It has now been introduced into Congress. To my knowledge no action has been taken. No hearings have been held as yet. However, in the Houston office we have had people appear within the last few months at our information counter and want their status adjusted or regularized because of the proposal that was made by the President. They are very unhappy when we put them under what we call docket control and tell them to leave the United States. I must say within the last three to four weeks we haven't had anyone come in. I believe the word got out in a hurry.

(LAUGHTER)

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Q. Did the Service, when it was making estimates in '76, have estimates on statewide numbers of aliens in Texas and on nationwide estimates of the numbers of illegal aliens in the country?

A. You mean undocumented aliens in general, total?

Q. Yes, sir.

A. Well, yes. There were estimates that there were from six to eight million, and I saw some estimates that were twelve million. I don't believe that came from our Service. I think this was exaggerated materially.

Q. And were there estimates by I.N.S. on the numbers of illegal aliens in Texas?

A. The estimate at that time was close to a million undocumented aliens.

Q. And have you seen any signs that those numbers are decreasing?

A. Not to my knowledge, no.

Q. Now, from the past computations that your office made did you make estimates on the number of illegal aliens within the geographical district of Houston Independent School District?

A. Yes, we did in March 1976. We used two different methods, and we came up with two different figures, which were about fifteen hundred alien children of school age. The difference was fifteen hundred. By one method we arrived at a figure of 5,626 undocumented children within the Houston Independent School District, and by the other method we arrived at a figure of 4,120 undocumented children within the school district.

Q. Could you briefly explain the methods of calculation that you used in arriving at those figures?

A. Yes. First, I would like to define what we call leads. This is information we receive from the general public in the form of telephone calls, letters, personal appearances, telling us of undocumented aliens in the area within our district. In March of '76 we had twenty-one hundred leads on hand relating to twenty-five thousand undocumented aliens in the Houston metropolitan area. Today – and I want to say this to clarify it, because I have made statements since March – today we still have twenty-one hundred leads on hand, but they relate to forty thousand illegal aliens, or the information we're receiving relates more to industry where there's from a hundred to two hundred people, but I'll go back to '76 when we had twenty-one hundred leads relating to twenty-five thousand people. We sorted these leads according to

the boundaries of the Houston Independent School District and found that seventy-five percent of the information or information relating to 18,750 undocumented aliens were within the Houston Independent School District boundaries.

Over the past years, I would say fifteen or twenty years, the Immigration Service has estimated that they locate or apprehend one out of four or five aliens. That was standard. Over the last two or three years it has become quite apparent that the undocumented alien is not in the rural areas in the numbers that they used to be. They are in the cities, the metropolitan areas, and we estimate that we only apprehend or locate one out of every ten undocumented aliens, so we multiplied 18,750 reported undocumented aliens by ten, and we come up with 187,750 undocumented aliens residing within the Houston Independent School District boundaries.

With our limited force we only locate very few children and women, because we are working in the employment area, and during this period we were averaging apprehensions of 448 undocumented aliens a month, and there were 25 women or children of that 448. It was found that sixty percent or 15 of the women and children were children of school age. This amounts to three percent of the 448, so we took the three percent of the estimated total undocumented aliens reported, and that gave us a figure of 5,625 undocumented children within the Houston Independent School District.

Our second method—.

THE COURT: How many of those would be of school age?

THE WITNESS: We estimated that they were all of school age.

A. Our second method, we resorted the pieces of information relating to undocumented aliens and found 147 leads relating to families residing within the Houston Independent School District, and there were 412 children reported. Again using the one-to-ten ratio we arrived at 4,210 undocumented children of school age within the Houston Independent School District.

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Q. Back to the figures that you proposed for Houston I.S.D. between the four and five thousand figure, would you say that those figures are conservative or exaggeraged?

A. When this estimate was made, and I still stand by that, it was a factual and conservative estimate.

Q. Why would you say it is conservative?

A. Well, I believe by nature, and I believe anyone will testify to that, I have been conservative all my life. I have found if you are realistic in your estimates, no matter what it is for, if it's justification for funds, manpower or anything, you have a better chance of sustaining and receiving good results.

Q. In the numbers of pickups, do you pick up a higher number of singles, as opposed to families, because a family is more integrated into the Mexican-American enclave?

THE COURT: When you say pickups, are you speaking about apprehensions?

MS. CARDWELL: Yes, sir.

A. Yes. With our limited force we have not, you might say, worked the street as much as we would like to or

as should be done. A great number of undocumented aliens are referred to us by other law enforcement agencies, city, county and state and federal. When we do go out on the street or on area control operation, based on the leads that I previously mentioned, we try to go to the places of employment where they are paying the highest salary to make a job available for a citizen or a resident.

Now, most of the undocumented aliens are men. They may not be single. They may have families in other countries, and very few of them that we have had as a result of referral from law enforcement agencies are married in the United States, or if they do have a wife or children here, they do not tell us about it. They want to go back home, especially the Mexican National, directly from our office. They do not want to go to where they reside, and, generally, this is because there are others there that they don't want us to know about.

Q. So you are just generally less likely to find a family than the single individual?

A. Yes. Through checking employment we are less likely to find the family or the family man.

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Q. Does the nature of the illegal alien lend itself to an accurate accounting of its precence?

A. I'm sorry. I still didn't follow you.

THE COURT: I'm not sure I understood the question either.

Q. Does the nature of the illegal alien lend itself to an accurate accounting of numbers and presence within the state?

A. Well, no, of course, an undocumented alien doesn't want to be apprehended. From my experience and Service experience, generally, they are excellent workers, work long hours; they go home and come back early the next morning. After they have been here a while, they may get out on the street on weekends and unfortunately be apprehended or arrested for some local violations, but generally they stay away from the Immigration Service, and, especially, those that have families here are not out to where their status may become known, unless some friend or someone else reports them. If they have a family, they're usually with their family, and they don't come to our attention as much until they need something, and then they may come to our attention.

Q. What percentage of the illegal aliens we have been talking about are Mexican Nationals?

A. At least ninety percent of the undocumented aliens located or apprehended by our office are Mexican Nationals.

Q. In dealing with the illegal alien have you had occasion to learn whether or not he pays taxes?

A. From my observation of the checkstubs – once in a while I go into the investigations. I may decide that this week I'm going in to look at the apprehension forms to see what is happening. Where are they getting these people? How much are they making and so forth? I haven't done this recently. I did this about three months ago when we were apprehending – at that particular time we had about two hundred apprehensions a week, and there were not checkstubs on every one, because some people don't receive those, but of all those there, and I would say that sixty percent had them, there was not one dollar of federal income tax deducted on those checks that were paid.

Q. Why was that?

A. Well, all I can surmise is that their exemptions that were claimed were so great that there was no federal income tax due.

Q. Do you find instances of exemption falsification?

A. Yes, we have. This has gone on for years and years. It was two years ago in the Dallas office, which was then under my jurisdiction, and for ten days they made a survey of the number of exemptions being claimed. They only located eighty-even aliens in that ten days, which was light for the Dallas office, but of those eighty-seven there were 462 exemptions claimed. One sixteen-year-old lad was claiming sixteen dependents or exemptions, and we find this all the time.

We have reported it, but the other federal agencies are as short-handed as we are. If we apprehend an undocumented alien with more than $1,000.00 in his possession, we call the Internal Revenue Service, and they come and figure his tax, whether he owes any or not. If it's less than $1,000.00, it's more time consuming than it is worth.

Q. Finally, based on your years of experience with the I.N.S. – we have talked about the percentages of children, from twenty to thirty percent, would you say that an estimate of three percent children is unfair for the state or would be a fair estimate?

A. Well, I can't speak – again, I say I can't speak for the entire state, but that three percent figure that we used, I believe it is valid. I would say it is very conservative, but I would stick with it. Under the Silva decision we say we are locating thirty percent who are children of school age, but this is more or less a concentrated processing of people that were within

that three percent. This processing of the Silva cases will not continue indefinitely. This is something we're supposed to do as soon as possible.

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Q. On what factors do you base your statement that you apprehend approximately one in ten undocumented aliens in a metropolitan area?

A. From our experience I can specifically talk about the Houston metropolitan area. We have leads on forty thousand aliens, and we are locating only about four to five hundred a month, and I don't think we're doing that good in the Houston area. It may be one to twenty in that particular area without resources and manpower.

Q. From what sources do you get these leads?

A. From everyone. People call on the telephone. People appear in the office. People write us letters, not only from individuals. It could be – it's both from the private and public sectors. We receive information in all manners. On phone calls and personal appearances we reduce it to writing, the information they have.

Q. Do you and/or people on your staff follow up each lead?

A. We do to the best of our ability. No, we are unable to follow them all. With our manpower we cull those that we believe need the most attention, aggravated cases, and, as I stated before, those where they are working, where they are making the highest salary to open the job for a citizen or permanent resident.

[page 217]

Q. You testified that of those people in the Silva class whose documents you are in the process of adjusting, approximately thirty percent of the families are children. Could you briefly describe those people who comprise the Silva class?

A. Well, those people come under a court decision in the Federal Court in Chicago called Silva versus I evi decision, which was compiled in behalf of the Western Hemisphere natives who claimed that they were discriminated against in that visas were made available to the Cuban refugees and not to the natives of the Western Hemisphere. The court ruled in their favor. The State Department and Immigration Service advised that there were approximately 145,000 visas issued to Cuban refugees, which have been made available to the entire Western Hemisphere, so as of March 11th our instructions are that we will process these people to locate them, identify them, give them a copy of the court decision and advise them of any benefits they may be eligible for.

I got ahead of myself. These persons must have had a priority date with the Consulate; that is, they must have been in contact with the Consul and registered for the issuance of an immigrant visa prior to December 31st, 1976, and must have been in the United States on March 11th.

Q. Are a number of these people parents of citizen children who have petitioned for the admission of their parents prior to the change of the law in January of 1977?

A. Yes, many of them are. They have one United States citizen child born here while they were on an undocumented status.

Q. At least one child?

A. Yes.

Q. So at least a certain number of these thirty percent children in the Silva class are citizen children?

A. No, no, we did not include the citizen children.

Q. But these involve families with citizen children?

A. Yes, there are some that did not have the children. Someone else had filed in their behalf or they were qualified in some other way, but the majority of them have one United States citizen child.

Q. In your experience with legal immigration have you noted that some people now being legally admitted to the United States have been here in an undocumented status previously?

A. Oh, yes, that's true.

Q. In your work in the immigration field have you come across people who have lived for substantial periods of time in the United States as undocumented aliens, greater than seven years?

A. Well, yes, I have become aware of quite a number through the years who have been here more than seven years, yes.

Q. Do these people include people who have come to the United States as infants or young children and have lived to their early adult years without being documented?

A. Oh, yes, there are some, yes, that have been here twenty years and married and had children.

Q. Do these people often marry citizens?

A. Generally citizens or permanent residents, yes.

Q. And thus have an opportunity to adjust their status in that manner?

A. Yes, those that come to our attention, we advise them of all the administrative relief available and encourage them to file the proper documents.

[page 224]

Q. You stated that the I.N.S. policy is to give priority to reports of illegal aliens working at those places which pay the highest wages. Is that correct?

A. Yes.

Q. Doesn't this have the effect of creating an underclass of jobs in which there is less or no enforcement if the jobs are the least desirable, least economically rewarding?

A. I do not know. It was a practice of the Service to create or locate aliens who were making the most money and the highest salaries so that a local citizen and permanent resident could take over that job and support himself and his family.

[page 225]

Q. Sir, in your judgment if President Carter's proposals were implemented in the form of legislation, particularly, with reference to adding personnel to the Immigration and Naturalization Service, would you be able to control the problem better?

A. Of course, more resources of any kind would help. In my own personal opinion they do need more manpower along the border. However, I have been in the district offices so long, and we have been so understaffed that we cannot do our work in the interior as we would like to do, and we need that across the board.

Q. How much of an increase in personnel percentagewise would you need?

A. Well now, I can only speak for my district.

Q. Yes, for your district.

A. I must say that when I went to Houston as District Director four years ago, our first budget proposal, which was put in in December '73, we asked for twenty-eight investigators in the Houston district. We had six at that time. As of today we have ten, and we still need twenty-eight to thirty investigators to adequate do our job.

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TESTIMONY OF DR. CHRISTOPHER SHANE DAVIES

Q. Dr. Davies, would you state your name and address for the record, please?

A. My name is Christopher S. Davies, D-a-v-i-e-s (spelling), and I reside at 3317 Perry Lane, P-e-r-r-y (spelling), Austin, Texas.

Q. Where are you currently employed, Dr. Davies?

A. I am Associate Professor of Geography and Community and Neighborhood Planning of the University of Texas Austin.

[page 233]

Q. What is the basis or what has the study of the undocumented alien consisted of that you have done and worked with?

A. This specific study was the investigation of something around 3,500 pieces of information from the San Antonio branch, of which a random sample of 546 pieces of information on the undocumented worker was collected, and from that material inferences were developed on their characteristics, their mobility patterns in the United States, et cetera.

[page 234]

Q. Dr. Davies, could you please describe the general pattern of migration into the U.S. of the undocumented alien?

A. Well, the information we gathered permitted us to ascertain the residential location and sometimes the birthplace location of the undocumented worker within Mexico, and in part from the documents his step-wise migration patterns in part through Mexico to the border towns and then the springboard into the United States.

Specifically, the geographic pattern that we ascertained primarily channeled itself along the major transportation routes, such as IH-35 through the major metropolitan areas of San Antonio, Austin and Dallas. The other stream was, of course, around the south coast toward the Houston area, moving into Florida, and the other one up through the Midwest.

Q. Where do you find concentrations of the illegal Mexican alien?

A. Well, there were two findings on the geographic pattern. In fact, those undocumented workers who had residences within the United States were found deeper into the State of Texas. In other words, they were found in communities such as San Antonio, Austin, Dallas and surrounding communities. Normally, we tended to find or associate the undocumented worker with Mexican enclaves within metropolitan areas, since they obtained nurture – in a sense they obtained some sence of protection and assistance possibly in searching for jobs, and in a sense they are, shall we say, less conspicuous.

[page 237]

Q. Are you familiar with the Texas policy of excluding the illegal alien child from free public education?

A. I am, ma'am.

Q. In your opinion does that effect immigration into the country from Mexico?

A. As an attractive index, no.

Q. How would you say that the illegal Mexican alien who comes into the country compares with the legal aliens that come into the country?

A. On what points?

Q. In terms of Spanish-speaking ability, whether he's rich or poor, whether they live in the same places.

A. The general overall view or the portrait that I can ascertain is that they tend to be predominately Spanish-speaking and illiterate relative to – well, illiterate, and I think below the educational capabilities of immigrants in the State of Texas.

THE COURT: Excuse me. I had understood counsel's question to be – and correct me if I am wrong – she wanted a comparison, a relative comparison, of the educational ability and economic status and other characteristics as between the legal entrant and the illegal entrant. Is that what you have given us?

THE WITNESS: Yes. Excuse me, sir. I was trying to. From our findings they tend to be below the legal alien within the United States on educational capabilities, skill levels and from the viewpoint of earning power.

THE COURT: Are you able to account for that?

(REPORTER'S NOTE: There was no audible response from the witness.)

THE COURT: I mean the reasons for it.

THE WITNESS: It seems to me—. Well, first of all, sir, in order to become a legal alien, you have to conform to specific entry standards, and in that case usually that there is a job available to you in the United States, and in the sense that the U.S. policy has been, I believe, one of attracting or only allowing in, shall we say, the more educated legal aliens, as a consequence, individuals who originate from these rural areas of Mexico cannot conform to those standards.

[page 239]

Q. You have heard the estimates of Ms. Houston at six hundred thousand in the State of Texas and also the estimates of Mr. Heston, which would range from 450,000 to a million in the State of Texas. Would you consider those estimates conservative in your professional opinion or exaggerated?

A. Well, since the major receiving states, if you assume there are six million people in the United States, and the major receiving states are those of the greatest geographic proximity to the Mexican border, and the major receiving states in the United States being California, Texas, New York and New Jersey, et cetera, I would assume that if you were to proportion the six million people, you would find those figures to be possibly in my estimation conservative for the State of Texas.

Q. Based also on the numbers of legal Mexican aliens in the state, would you say that those numbers would be conservative or exaggerated?

A. Well, if one makes the analogy from cultural reasons and from the viewpoint of assistance that there is a strong correlation between the residence location of illegal aliens and the distribution of the Mexican American population in the United States, I would say that, again, you can expect a large proporation within the State of Texas.

Q. You have also heard the estimates on children within the Houston district of being three percent, and then we heard something about it being as high as thirty percent, but if you would take the three percent on a statewide basis, would you say that that is a fair percentage of children?

A. Well, again, if you want to speculate on the nature of this data, I would say that three percent seems to be a good estimate conservatively.

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Q. Dr. Davies, as to your study or your observations concerning the differences between legal and illegal immigrants of Mexican origin, have you been able to

make any comparisons concerning the children of undocumented aliens, as opposed to the children of legal immigrants?

A. No, ma'am, within the study itself, in fact, a very small amount, which is negligible, in a sense, not permitting us to do such a thing.

[page 245]

Q. What in your opinion would be the effect on the children of these illegal immigrants, if they are not permitted an education? What type of a labor force – or how will they affect the labor force in this country?

A. Well, it would be very sad, indeed, if a child, who is not, obviously, in any society provided with a means of obtaining an education, particularly, in a mechanized and specialized world. It seems to me today in our society that we are demanding a type of labor that not only citizens within the United States, but if we want to make parallels, people in the United Kingdom, people in France, people in Germany, people from Turkey, the West Indians and the Pakastani workers, there is a type of laborer for work that so many of us are receiving to participate in, in other words, the lowest sort of society, the very low blue-collar workers, and I assume that without the means of improving one's intellectual capabilities, you would set yourself in that strata, which is low-skilled or low-income jobs.

Q. If you have a person with low skills and low economic status, who is, moreover, threatened with the specter of the law, how do you place them as a sociologist? I believe you have some training in that. Is he in a state of virtual serfdom there?

A. I would say that he is in a sense in an unfortunate plight, an unfortunate position, simply because in some of the research findings we find that these individuals can be exploited in a sense through threat of being told that they would be apprehended, so I would say if you're looking back historically, if you're thinking of it in terms of the serf class, yes.

TESTIMONY OF JOHN EATON

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A. Ten years.

Q. Did you have contact with the illegal Mexican alien and the illegal alien student then?

A. Yes, I might even go back to '48-'49. At that time I was with the Harris County Probation Department in the Delinquency and Dependency Section and left there as supervisor of that. I did have some contact with children who had been involved in certain difficulties, so I was aware that we did have this type of child that we term as a juvenile in our community. Perhaps the next more direct contact was in 1955 and 1960, which was predominantly – at that time we referred to them as Latin American. We call these children Hispanic now, but this was about sixty percent with a school enrollment of from two thousand to twenty-two hundred, a three-grade junior high, seven, eight and ninth grades.

When you say illegal aliens at that time I don't think we used the term. Most of those children were *migrants*. They were passing through our community. They had perhaps worked in the Valley, had moved on up. They had relatives in Houston. They would appear at our school, and we had no regulation or any-

thing that prevented these children from coming into our school at that time, so we would enroll these children. The length of stay depended on their parents, where they would be moving, to what location they went in the future.

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Q. If those four to five thousand illegal aliens were added to your district, would that have an impact on your costs and on your programs?

A. Well, definitely, it would be a cost factor, and the thing I guess – if I might digress just a minute, if the court will allow me – the thing that really concerns me is that only four percent of our professional staff at present is Hispanic or could really be termed bilingual. For the past three years we have attempted to recruit all over the United States to accommodate those children who are legally eligible within our district, to define their needs, screen test and bring them up to achievement that would meet the federal guidelines in the federal case and our own Senate Bill 121 in Texas, so it costs, just projecting what I gave a moment ago, a thousand students would be another $1,740,000.00, if they avail themselves of each of these services, if they were in a school where they could get a Title I program and get $25.00 per child for clothing, so it would impact, if we had more Hispanic children coming in – right now we're attempting to take care of some nine thousand that have been identified in Grades K through 3, and if you were to extend it on to pupils who have been identified through the twelfth grade, you're looking at fifteen thousand, perhaps, who would need some type of special types of programs to bring their efficiency up to what we would expect of the average class, so, definitely, any one or more impacts would add to the cost.

Q. Has it been your experience in your contact with the illegal alien students that he would need this assistance in terms of bilingual assistance and other specially funded educational programs?

A. Well, let me draw on an experience that I have actual knowledge of. When I was at the junior high school with the migrant child, who I assumed was here through legal channels to be a migrant farm worker, these children would come over with very little formal education. Because of the age that I would receive them, these children would be fourteen, fifteen or some sixteen years of age. They were not even performing on even a second or third grade level in formal education. How many years they had been migrating throughout the United States I could not say, but we would attempt – I had at that time some Latin American – that's the terminology we used – I would place these children in these classes where we could have a two-way dialogue and give the children books, and most of them were eager to learn. This, I think, would carry over to the legal alien, the twenty-six identified that we know about in the Hernandez suit – the Ledezma suit has been resolved, and these children are in school and are making progress. I hope I haven't expounded too much here.

Q. That's fine. Would there be an impact on other students in the classroom, if these illegal alien students were added to the Houston I.S.D.?

A. Any time you add, let me say, ten children to a class that already has twenty-five or thirty, you are compounding or you are expecting more out of this teacher. Our bilingual – we have a hundred twenty-three bilingual teachers as of this week. Most of them have a bilingual aid, and these people in the classes that I have visited – I have not visited all – but the ones that I have visited, I see the children in there –

now, these are the legal children in classes that we are teaching today – at a much lower grade level for the most part, because we do have a migratory factor from twenty to fifty percent in some of the elementary schools. Some of these kiddos have just moved in from all over the United States, and, definitely, you are imposing on this teacher one more child.

Our duty is to educate. We have no problems or difficulty with this, but we do have only so many people that can get around and assist only thirty or thirty-five in a class and assist and help give them the security that they might need.

Q. Does the illegal alien bring with him into the classroom unique or special educational problems?

A. Yes, for personal experience, as I stated, the child is usually overaged and oversized, has social problems. He compensates for not participating quite often. In other words, he doesn't want to show that he doesn't know this before the smaller children. I had considerable difficulty with some, as far as the older child, let's say, creating a disturbance with a smaller child, taking his lunch money or trying to be a hero or developing a gang around him for acceptance, whatever. In other words, he just has not grown per grade per year and really gone along, and his social development has been actually disturbed, hindered.

[page 269]

Q. Now, between 1974-'75 and '75-'76 did the H.I.S.D. have occasion to reduce its administrative staff?

A. I don't recall that, sir.

Q. It would be your belief that they did not reduce it?

A. I don't recall other than retirees, but I don't believe we have reduced them. If we did, I'm not familiar with it.

Q. Between 1974-'75 and the following school year did the H.I.S.D. reduce its teaching staff?

A. Our teaching staff has continued to grow because of the special type programs. Each year it has increased. I do not have that information with me, but it has gained a few, fifty or a hundred each year, sir.

Q. Now, H.I.S.D. has a fairly extensive bilingual program, doesn't it?

A. We have got a very active bilingual department. It's limited because of number of staff, perhaps, but we are expanding. We have proposals. We are thinking in the future, making projections of our needs.

Q. In fact, the number of students who are participating in the bilingual program has increased yearly over the last four or five years, has it not?

A. Well, for the three years that I have records here – we would actually go back prior to that – we would assimilate these children to a situation where it would be most conducive to their education, where they would have a bilingual situation, so it has increased, yes, sir.

Q. Mr. Eaton, there has been previous testimony by two school finance experts that there are primarily two major groupings of costs that go into a school budget. The first major grouping would be essentially fixed costs, maintenance and debt service and various things of that sort, and the second would be instructional costs. For a rough breakdown is that fair?

A. That's a fair statement.

Q. The two experts which I referred to have also testified that the exclusion of students from a district has little, if any, impact upon fixed costs, *i.e.*, the costs that remain fairly constant. Do you essentially agree with that?

A. Sixty-nine children we have now that we know are legal would have little adverse (sic) in our total budget. I'm talking about only sixty-nine, because we have a mobile population, we have a gain and loss every six weeks. At the end of each quarter we graduate seniors. That reduces our enrollment, and our enrollment will probably end up around two hundred thousand at the end of this year, so at the rate of last year of $3.54 (sic), it will go down a little below – October is our peak. It has been consistent, and then it gradually declines.

Q. Let me sort of pinpoint – your testimony concerning cost per pupil, you divided the number of students into your total school budget, did you not?

A. That is the way I arrived at this Exhibit No. 5, sir, the court exhibit (sic).

Q. Now, for example, the exclusion of say a given student would not necessarily save the school district that amount of money, would it?

A. This budget is constant. We have to live with it. It's put into T.E.A.'s office before the 1st of August by state law, so we have to live within that budget unless it is amended, which is also a state-controlled routine.

Q. You get certain sums for every so many students, do you not, from the state? Isn't there a formula?

A. Yes, sir.

Q. The formula roughly is you get the equivalent of one teacher for every twenty students?

A. Not exactly, sir. This last Legislature, if I may read from the Texas Register, I believe of October 11, 1977, which is your official record for the State of Texas, there's a divisor of 19 for Grades K through three; 21 pupils four to six; 20 pupils seven to Grade Nine; 18 pupils ten to Grade Twelve. That is what is ideal, sir.

Q. And it is those figures that trigger state participation of state money?

A. They determine our foundation funding, yes, sir.

Q. Your foundation funding is dependent upon your average daily attendance, in other words, numbers of students in attendance. Is that right?

A. Let me go back to the budget for a minute and answer this a little more concisely. Revenues from local and intermediate levels is a hundred twenty-three million, and it reflected a two hundred forty-five million total, so about fifty percent would come from the state and another fifty percent from local taxation.

Q. Local taxation is primarily derived from property taxes?

A. Ad valorem taxes and this type of thing, yes, sir.

[page 276]

Q. Now, from your experience is it fair to assume that most new migrants from Mexico, whether they are legal or illegal, can benefit from bilingual education?

A. Absolutely, sir. I would think that ninety-nine -- that may be high -- would need this training to structure their education to the regular classroom situation.

Q. This is irrespective of whether they are legal or illegal. It's the newness to the country, I would assume that triggers it.

A. I think that would be a fair statement, sir.

Q. Indeed, many children grow up in Houston and are born here who are in need of bilingual programming. Isn't that correct?

A. That reflects the culture within their respective families, that's true.

[page 277]

Q. Not to denegrate local contributions, the major single source of money for the bilingual program in H.I.S.D. at the present time are federal funds, is it not?

A. No, sir. This year $2,372,809.00 is coming out of local taxation. $839,408.00 is federal funds.

[page 279]

Q. You testified briefly earlier concerning overageness and the problems caused by having overaged children in a classroom, did you not?

A. That is correct.

Q. And you were talking particularly about migrant children at that time, were you not?

A. I was talking about migrant or children of Hispanic background coming from an elementary or feeder

school which was predominantly at that time Latin American, Hispanic now, moving into a junior high situation, and I base this, sir – our seventh grade counselor, I had instructed her to put these children into a category to see what they need, and we found that many of these children were two and three years behind. They were two or three years over normal grade placement, so we attempted to construct remedial classes to accommodate the needs of these children. Now, this is what I am talking about overaged that I have had experience with.

Q. But you weren't talking particularly and narrowly about undocumented alien children, were you?

A. I wasn't talking about anything except at that point in time the migrant that was over here legally, as far as I knew, a farm worker, and the Spanish child was a legal resident. We did not go into the identification as we go in now. In other words, the children came in, and they had the baptismal record, and the mother and father signed what was called eighth grade residence certificate that they lived within H.I.S.D. and were legal residents, and we assumed they were.

[page 281]

Q. You have been involved in education a long time?

A. Education has been my major endeavor, yes, sir.

Q. Education is a pretty important thing, isn't it?

A. I think it is one of the most important things we have in America.

Q. What is the effect of not receiving an education, being excluded from receiving an education today in the State of Texas?

A. Well, I think this is reflected by whatever our percentage of employment might be across the nation. Here's a person that has not gained a skill or does not have the ability to perform at some level of competency at some type of job, plus depriving this person of many of the basic privileges that we have in America, not knowing exactly how to exercise various rights, privileges and this type of thing, so education has a lot to do with what we do in America, sir.

Q. Would it be fair to say that you would cripple a person socially and economically, would you not, if you deny them an edication?

[page 282]

THE COURT: You say no one has paid any tuition?

THE WITNESS: As far as I know, nonw of these illegal aliens, undocumented.

[page 288]

Q. Then you're talking about not being able to give the four to five thousand adequate education. Are you also talking about not being able to give citizens and legally admitted children an adequate education?

A. I'm saying that we are short on bilingual teachers now, like every place in the United States. Four percent of our teachers and twenty-two percent of our students are Hispanic.

Q. But would the four thousand to five thousand illegal alien students, if added to Houston I.S.D., adversely affect the education of legally admitted and citizen children?

A. Absolutely, but it would penalize these children that are attempting to get an education by taking needed time from this teacher in this bilingual class or in this classroom, who would have to spread himself much thinner in order to pick this child up. This child comes in with little formal education, no concepts, and to develop this child up to a performance level of proficiency, well, it's going to take someone in the classroom, and I don't think we have enough teachers. I don't think we have enough bilingual aids to accommodate this situation. It would adversely -- yes, the answer to your question would be affirmative.

Q. While it would have an adverse impact on Houston I.S.D. generally, would it have an even more adverse impact on the Mexican students in your schools?

A. Would you repeat that? Let me try to delineate here.

Q. Would the adverse impact be even greater on the Mexican legal student in your schools?

A. Mexican legal?

Q. Yes, students already there.

A. Yes, right. Maybe I didn't answer this a moment ago. It would take the time from this child who is a legal resident. This child would demand more attention. This child would be -- where we would have maybe twenty-five, or we would put maybe thirty-five or forty in a class. It would dilute or diminish the amount of learning to be performed in that class, so it would penalize this child, because I have been in classes where you have forty, and you can't do as well if you have four or five grade levels in there.

Q. It's the Spanish-speaking student, the Mexican American student who is in bilingual education who

would suffer if additional limited speaking English students were impacted into the school district, isn't it?

A. He would suffer, because we could not give him as much education per hour per day.

Q. And you can't find teachers.

A. And we do not have adequate teachers.

[page 295]

TESTIMONY OF DR. JIM BOB HENSLEY

Q. Dr. Hensley, would you please state your name and address for the record, please?

A. I am Jim Bob Hensley, and my address is 1301 East First Street, Mount Pleasant, Texas.

Q. Where are you employed, Dr. Hensley?

A. Region VIII Education Service Center in Mount Pleasant.

Q. Could you give the court a brief description of your educational background, please?

A. I have a Bachelor's Degree from the University of Oklahoma, Master's Degree from the University of Northern Colorado, and a Doctor of Philosophy Degree from Texas A&M University.

Q. Could you give the court also a brief description of your employment history, please?

A. Yes, I have been an elementary teacher, an elementary principal, and I was a program director for elemen-

tary education at the Texas Education Agency. I have been director of administration for Region I Education Service Center in Edinburg. I've been a part-time graduate professor at Pan American University, and now I'm Deputy Director at Region VIII Education Service Center.

[page 296]

Q. What areas of research or field of concentration in your education?

A. By being in the Valley education administration, primarily, and elementary education, and then in the Valley I did a fifteen-month research project on the impact of immigrant alien students from Mexico upon border school districts.

Q. Have you become familiar with other areas of Mexican alien impact and illegal alien impact, other than just your study?

A. Yes, through related research and reading, that sort of thing, and conversations with school personnel.

Q. What areas of inquiry were involved in this study that you conducted?

A. The impact on personnel, funding, as far as construction of buildings, programmatic areas and this sort of thing.

Q. What areas in terms of school districts did your study actually cover?

A. The thirteen counties adjacent to the Mexican border in Texas.

Q. And what did you find in terms of Mexican alien population in those counties?

A. In the sixty-one school districts located in those counties there were ten percent of the children had Mexican birth certificates.

Q. Is that high or low as compared to the rest of the state?

A. As Mr. Anderson testified earlier this morning, statewide it is 1.8 percent, and on the border in '75-'76 when I did my study, it was 9.6, right at ten percent.

Q. Did you find associated with that ten percent group educational problems?

A. Severe problems on children who were especially overaged.

Q. Could you explain those problems to the court, please?

A. Yes, the state-mandated bilingual education program generally was adequate for children in kindergarten through third grade, but after that students who were beyond that age, colleges and universities and school districts just do not train secondary personnel to deal with limited English-speaking students.

Q. In the upper grade levels, you mean?

A. Right, and in high school.

Q. Does that mean that the teachers are not available for that age level?

A. Not available or not trained.

Q. What was the result of your inquiry into the space needs or the adequacies of physical facilities in those school districts to house those students?

A. I personally went into all sixty-one school districts, and most of them were small, so in a lot of cases I got to look, you know, at each facility, and, comparatively speaking, as you get away from the border, I would say the facilities were atrocious.

[page 300]

Q. What are you talking about in terms of growth among the alien population along the border?

A. In the first – I don't know about growth. All I know is during the survey that I took in that one particular year where there were twenty-seven thousand students approximately with Mexican birth certificates, about twenty-two percent of those were there for the first year, for the first year in school, around six thousand or so, so from that we assumed that this was a growing problem, if they were first-year students.

Q. Is this a continuing phenomena, the large influx of alien students into those districts?

A. Yes. I'll have to go back a little bit in history. The superintendents expressed a concern to our organization in '75 that they were beginning to have problems with space. They were getting kids coming from somewhere, and, as best they could figure out, they were coming from Mexico legally, to the best of their knowledge, so the State Board then commissioned us to do a study of this problem, and we found out that in that one year that I studied we found these numbers, and then subsequently the Texas Education Agency has followed up on a year-by-year survey, and,

as you heard Dr. Anderson say this morning, they had grown in one year by six thousand, and that's statewide.

I am not familiar with what the growth was in those sixty-one schools that I studied.

Q. But you are familiar with the growth being more intensified in those districts than statewide?

A. Yes, I would think so.

Q. Are the educational needs of Mexican alien students affecting building space utilization that will be required from the district? Could you explain that more fully? We have talked about it some but—.

A. Well, in the high school – well, a lot of times for this type of intensive instruction a lot of time you have to have small groups of students, so, thereby, you know, you have more classrooms, more teachers, but our problem – and I say our problem – I don't live there any longer, but the problem the schools were having is that the construction, the cost of school buildings are financed totally by the local taxpayer, and here we have students coming from another country, a foreign country, into the state, impacting on what we thought to be and proved to be with this study an isolated area of the state. They were impacting on the border, and we were saying that this was unfair to the border taxpayers.

A national policy had permitted a flow of immigrants into the country, and a local school district was being penalized for that.

Q. Did you find a like increase in available tax monies in correlation with the increase of the alien student in the schools?

A. No, because according to my study, eighty-two percent of these students were on the free lunch program, meaning eighty-two percent of them were poor children, and poor people moving into the area do not build houses and these sort of things, which increases the property values of the district, which will support building space that they require in the schools.

Q. Did you find that the Mexican immigrant alien students affected the educational program of the district?

A. Sure, when you have large numbers, as we saw coming in to the regular program, you overcrowd classrooms. You dilute the tax dollars that would normally be in the educational program, and they've got to go to these students too, so the less resources available per child, you're going to get less quality education.

Q. For all the children?

A. For all the children, absolutely.

[page 304]

Q. If 21.031 were repealed, would there be an impact on the school districts in terms of illegal alien students seeking an education?

A. I think there would in the border districts. I don't know about this far up in the state as far as Tyler and that sort of thing, but along the border, yes. Education is an attraction, and I think the repeal of that law would attract more to the border school districts.

Q. What would be the impact on the citizen or legally admitted children who are in those border districts?

A. Of course, more of these students, it would dilute their education. You know, here again, you've got in that particular group of schools, you have the poorest in the state. By poorest I mean they have the lowest taxable property, amounts of property to support a child than anywhere in the state, and you make it attractive for more students to come into the districts without substantially raising the tax base to support them, then it will affect them severely.

[page 306]

Q. In your opinion would there be a substantial increase all along the border?

A. All along the border. Now, I don't know that there would be a substantial increase in migration, you know. It's hard to explain. The obrder is a permeable membrane. Of course, people go back and forth across the border because of family ties, cultural ties, and a lot of times they do not recognize the body of water there as being a political boundary.

Q. Within that short space education would be an attraction, particularly right there on the border?

A. Yeah, a lot of the parents say they want to immigrate to the United States, of course, legally, and one of the prime motivations, of course, is education.

Q. On the border is what you're talking about?

A. Yes.

Q. But just to summarize, is what the findings of your report were that education now in the border districts is at a minimal level, and then the addition of the illegal alien students would in many instances make it almost nil?

A. I don't know if I want to say nil, but the quality of education along the border is lower because of No. 1, the lack of facilities, and No. 2, lack of qualified personnel and money to do things. Yeah, and if you have an influx of some additional students, no matter whatever, sure, it's going to lower the quality of education.

Q. For those children and legally admitted who are now in the schools?

A. Right.

[page 307]

CROSS-EXAMINATION

BY MR. ROOS:

Q. Mr. Henseley, the basic source of your knowledge about the border problems and the migration problems in the border areas derives from the study you conducted in '75-'76, does it not?

A. Yes, sir.

Q. And that study expressly only purported to measure the impact of legal resident alien migrants on the school districts, did it not?

A. That's correct.

Q. Have you ever formally taken a survey of the number of illegal aliens who would be admitted to school in the event that they would be permitted to attend schools in those areas?

A. No.

Q. Have you ever taken a formal survey indicating whether education is or is not a primary motivating factor for people coming across the border?

A. Not a formal survey, no, sir.

Q. Have you ever known a school district that didn't feel it needed more resources?

A. There are some isolated cases of budget-balanced school districts that have oil wells and minerals and that sort of thing, but, generally, no.

Q. I don't mean to denegrate the problems in the Valley—.

A. I know.

Q. —but everyone feels that they could use some more resources, don't they?

A. Yes, sir, but let me hasten to say that the Valley schools are pretty well documented that they need more, compared to the rest of the state.

[page 314]

Q. The two things you primarily identified caused by this migration were the housing problem and dealing with the child who was in the upper grade level. In fact, did you not conclude insofar as younger children, forgetting for a moment about the housing problem, that the needs of the recent migrant – we're talking about the permanent resident alien now as defined by your test – differed only minimally from those other children in the school district?

A. Along the border where eighty percent of the population is Mexican American, seventy-five to eighty per-

cent, then the educational program is pretty much the same.

Q. The needs are essentially the same?

A. I would say so, yes, sir, educational needs.

PLYLER V. DOE EXHIBITS

PLAINTIFF'S EXHIBIT 6
DECEMBER 12 and 16, 1977 TRANSCRIPT
J. and R. Doe et al. v. *James Plyler et al.*

TAX
REVENUE SOURCES

Omnibus Clearance
Fund (120)
production and
consumer taxes
$867 million

Foundation School
Fund (193)
$473. million
from Omnibus Fund

Motor Fuels Tax
Fund (060)
$109 million

General Revenue
Fund (001)
sales and utilities
taxes $591 million

Available School Fund (002)	
from Omnibus	$393 million
Interest on investments	85 million
from Motor Fuel tax	109 million
	$588 million

(Plaintiff's Exhibit 6 *cont'd)*

General Revenues
Fund (002)
$591 million
from General
Revenues

TOTAL STATE EXPENDITURES
FOR EDUCATION =
$1.6 BILLION

FUND ALLOCATIONS

Data Source: Comptroller's Annual Report, 1977
Tables 16, 33, 35, and 37

Detail 1

Omnibus Clearance Fund -
Direct and Indirect
Consumer Taxes

Direct Consumer Taxes	**(in thousands)**
Utilities	58,483
Telephone	39,672
Admissions	1,208
Liquor	33,814
Wine	3,018
Ale	1,120
Telegraph	99
Beer	47,665
Motor Vehicles - rental	6,988
Motor Vehicles - sales	321,303
Insurance Premiums	118,302
Amusement Machines	1,376
Total Direct Taxes	633,088

Indirect Consumer Taxes

Oil Production	436,434
Gas Production	474,754
Total Indirect Taxes	911,188
Total Direct and Indirect	1,544,276
Total Omnibus Allocations =	1,804,880
Percent of allocations passed to consumer	85%

Source: Comptroller's Annual Report, 1977 Table 35

Detail 2

General Revenue Fund - Consumer Taxes

	(in thousands)
Total Revenues	2,022,997
Less non-consumer taxes	
Franchise Tax	236,612
Inheritance Tax	66,568
	303,180
Balance - direct or indirect consumer taxes	1,719,817
Percent of taxes paid by consumer	85%

Source: Comptroller's Annual Report, 1977 Table 7

B-93

BOOK 1

PLAINTIFF'S EXHIBIT 7

DECEMBER 12 and 16, 1977 TRANSCRIPT

J. and R. Doe et al. v. *James Plyler et al.*

1977 ANNUAL FINANCIAL REPORT
of
The State of Texas

for the fiscal year ended
August 31, 1977

BOB BULLOCK
Comptroller of Public Accounts

COMPTROLLER OF PUBLIC ACCOUNTS
STATE OF TEXAS
AUSTIN 78774

November 7, 1977

The Honorable Dolph Briscoe
Governor of Texas
The State Capitol
Austin, Texas 78767

Dear Governor Briscoe:

The State's fiscal year ended August 31, 1977 was, again, a record year for both revenues and expenditures for state government.

Revenues and an opening cash balance of $9.00 billion supported expenditures of $7.02 billion, leaving a net cash balance of $1.98 billion. This cash balance, also a record figure, was $336 million more than the cash balance at the beginning of the fiscal year.

This favorable position was made possible by record revenues from all major sources, including $4.42 billion in tax collections, $1.85 billion in federal funds, $372 million in licenses and fees, $279 million in investments of state funds, and $341 million in income from state owned land.

This report details revenues and expenditures for 1977 as required by Article 4348, R.C.S. of Texas.

Respectfully submitted,

BOB BULLOCK
Comptroller of Public Accounts

BOOK 2

PLAINTIFF'S EXHIBIT 7

DECEMBER 12 and 16, 1977 TRANSCRIPT

J. and R. Doe et al. v. *James Plyler et al.*

JULY 1977

BIENNIAL REVENUE ESTIMATE 1978-1979

Bob Bullock - Comptroller of Public Accounts

COMPTROLLER OF PUBLIC ACCOUNTS
STATE OF TEXAS
AUSTIN 78774

July 8, 1977

The Honorable Dolph Briscoe
Governor of Texas

The Honorable Bill Hobby
Lieutenant Governor of Texas

The Honorable Billy Clayton
Speaker of the Houst

Members of the 65th Legislature

Ladies and Gentlemen:

As the 65th Legislature comes into special session, our state government again finds its bank book blessed with a healthy bottom line balance.

The outlook for the future of that bottom line is always subject to change, and by this estimate I am increasing

my last estimate of the money available to the Legislature during the coming two years.

In the few short weeks since my last estimate significant changes have been dictated by state government actions. The changes based on these actions do not reflect any basic change in my forecast of general economic conditions.

The dust has now settled on the accomplishments of the Legislature's regular session and these acts, along with revisions in key public school funds, are major factors in the changes I have made.

I will now certify that $959.8 million will be available to the Legislature in general revenue funds during the remainder of this 1977 budget year and the 1978-79 budget years. This is an increase of approximately $60 million in general revenue from my last estimate. This estimate also shows an increase of $4 million in dedicated funds.

Changes in four basic areas have brought about these changes in the estimate.

First, by a series of new acts, now firmly fixed in law, the Legislature reduced our expected revenue collections for the coming two years. But second, by the same token, in the final appropriations actions the Legislature left a significant amount of money on the table in anticipation of a school finance bill.

Third, since the end of the regular session, the Foundation School Budget Committee has reduced their estimate of the needed support for the Foundation Program by $15 million from the budgeted estimate used in the appropriations bill.

Finally, the continuing shift of Permanent School Fund investments to higher yielding securities permits me to increase by $27.5 million my estimate of the earnings the Permanent Fund will provide to the Available Fund during the next two years. This revision is the only change in which general economic conditions have been a factor in my estimate.

(Plaintiff's Exhibit 7—Book 2 *cont'd)*

Delivery of this estimate fulfills the constitutional requirements of my office on the opening of the called session, but it in no way completes my willingness to work with the leadership of this state and the members of the Legislature on the tasks at hand.

Submitted in compliance with House Bill 5, 57th Legislature, First Called Session.

Sincerely,

BOB BULLOCK
Comptroller of Public Accounts

DEFENDANTS' EXHIBIT 6

THE IMPACT OF STUDENTS FROM MEXICO UPON SELECTED SCHOOL DISTRICTS IN TEXAS COUNTIES ADJACENT TO THE MEXICAN BORDER

A Research Study
by
JIM BOB HENSLEY

Submitted to: The State Board of
Education and the Texas Education Agency

Funded by:
Region One Education Service Center,
Edinburg, Texas
Charles W. Benson, Executive Director

September 1976

Table 3.—Number and Percentage of Mexican Immigrant/ Alien Students Enrolled in Texas Border School Districts during the 1st Quarter of 1975-76.

County District	Enrollment 1st Quarter	Number of Immigrant/ Aliens	Percentage of Immigrant/ Aliens
Brewster			
Alpine ISD	1,288	4	.3
Marathon ISD	175	11	6.3
San Vicente CSD	13	0	0
Terlingua CSD	15	0	0

Table 3 (Continued)—Number and percentage of Mexican Immigrant/Alien Students Enrolled in Texas Border School Districts during the 1st Quarter of 1975-76.

County District	Enrollment 1st Quarter	Number of Immigrant/ Aliens	Percentage of Immigrant/ Aliens
Cameron			
Brownsville ISD	22,618	3,125	13.8
Harlingen ISD	11,785	590	5.0
La Feria ISD	1,756	101	5.8
Los Fresnos ISD	2,296	111	4.8
Point Isabel ISD	1,655	77	4.7
Rio Grande MHMR ISD	116	0	0
Rio Hondo ISD	1,280	43	3.4
San Benito ISD	6,464	378	5.8
Santa Maria ISD	290	56	19.3
Santa Rosa ISD	857	64	7.3
South Texas ISD	439	35	8.0
El Paso			
Anthony ISD	390	34	8.7
Canutillo ISD	1,825	280	15.3
Clint ISD	807	87	10.8
El Paso ISD	62,884	5,988	9.5
Fabens ISD	1,632	187	11.5
San Elizario ISD	400	36	9.0
Socorro ISD	2,864	564	19.7
Tornillo ISD	312	69	22.1
Ysleta ISD	40,851	3,184	7.8

Table 3 (Continued)—Number and percentage of Mexican Immigrant/Alien Students Enrolled in Texas Border School Districts during the 1st Quarter of 1975-76.

County District	Enrollment 1st Quarter	Number of Immigrant/ Aliens	Percentage of Immigrant/ Aliens
Hidalgo			
Donna ISD	4,622	467	10.1
Edcouch-Elsa ISD	3,298	193	5.9
Edinburg ISD	9,915	513	5.2
Hidalgo ISD	1,005	273	27.2
La Joya ISD	2,719	389	14.3
LaVilla ISD	500	11	2.2
McAllen ISD	14,346	1,759	12.3
Mercedes ISD	3,945	283	7.2
Mission ISD	6,553	565	8.6
Monte Alto ISD	305	56	18.4
Pharr-San Juan-Alamo ISD	11,593	956	8.2
Progreso ISD	472	112	23.7
Sharyland ISD	1,317	117	8.9
Valley View CSD	185	5	2.7
Weslaco ISD	7,200	469	6.5
Hudspeth			
Allamore CSD	5	0	0
Dell City ISD	372	58	15.6
Ft. Hancock ISD	252	66	26.2
Sierra Blanca ISD	165	0	0

Table 3 (Continued)—Number and percentage of Mexican Immigrant/Alien Students Enrolled in Texas Border School Districts during the 1st Quarter of 1975-76.

County District	Enrollment 1st Quarter	Number of Immigrant/ Aliens	Percentage of Immigrant/ Aliens
Kinney			
Brackett ISD	604	63	10.4
Maverick			
Eagle Pass ISD	7,078	1,477	20.9
Presidio			
Candelaria CSD	12	0	0
Marfa ISD	694	7	1.0
Presidio ISD	545	112	20.6
Ruidosa CSD	13	0	0
Starr			
Rio Grande City ISD	4,210	455	10.8
Roma ISD	2,847	606	21.3
San Isidro ISD	398	16	4.0
Terrell			
Terrell County ISD	381	2	.5

Table 3 (Continued)—Number and percentage of Mexican Immigrant/Alien Students Enrolled in Texas Border School Districts during the 1st Quarter of 1975-76.

County District	Enrollment 1st Quarter	Number of Immigrant/ Aliens	Percentage of Immigrant/ Aliens
Val Verde			
Comstock ISD	11110.5		
Juno CSD	5	0	0
San Felipe-Del Rio ISD	8,724	938	10.8
Webb			
Laredo ISD	20,160	1,723	8.5
Mirando City ISD	135	12	8.9
United ISD	2,512	96	3.8
Webb Consolidated CSD	211	0	0
Zapata			
Zapata ISD	1,403	105	7.5
Grand Total	281,845	26,940	9.6

Table 4.-- Number of Texas Border Districts and Percentage of Mexican Immigrant/Alien Students Enrolled during the 1st Quarter of 1975-76

Percentage Enrolled	Number of Districts	Percentage of Districts
0	9	14.7
0.1-0.9	2	3.3
1.0-1.9	1	1.6
2.0-2.9	2	3.3
3.0-3.9	2	3.3
4.0-4.9	3	4.9
5.0-5.9	5	8.2
6.0-6.9	2	3.3
7.0-7.9	4	6.5
8.0-8.9	7	11.5
9.0-10.0	2	3.3
over 10.0	22	36.1
TOTALS	61	100.0

Table 5.-- Age of Mexican Immigrant/Alien Students Enrolled in Texas Border Districts during the 1st Quarter of 1975-76

Age	Number of Mexican Immigrant/Aliens	Percentage
5	72	.3
6	747	2.8
7	1335	5.0
8	1642	6.1
9	1826	6.8
10	1941	7.2
11	2195	8.1
12	2356	8.7
13	2403	8.9
14	2368	8.8
15	2440	9.1
16	2385	8.9
17	2042	7.6
18	1553	5.8
19	1042	3.9
20	444	1.6
21	120	.4
22	29	.1
TOTAL	26,940	100.0

Table 7.-- Number of Years Mexican Immigrant-Alien Students Were Enrolled in Texas Border Districts

Year	Number of Mexican Immigrant/Aliens	Percentage
1	6104	22.7
2	5308	19.7
3	4293	15.9
4	2797	10.4
5	2241	8.3
6	1691	6.3
7	1264	4.7
8	1062	3.9
9	749	2.8
10	588	2.2
11	377	1.4
12	326	1.2
13	100	.4
14	22	.1
15	17	.1
16	1	.0
TOTAL	26,940	100.0

Tabel 16.-- Enrollments of Texas Border Districts with Large Populations of Mexican Immigrant/Alien Students during the 1st Quarter of 1975-76

School District --	First Quarter Enrollment	No. of Mexican Immigrant/ Aliens	% of Mexican Immigrant/ Aliens
Brownsville	22,618	3,125	13.8
McAllen	14,346	1,759	12.3
San Felipe-Del Rio	8,724	938	10.8
Eagle Pass	7,048	1,477	20.9
Donna	4,622	467	10.1
Rio Grande City	4,210	455	10.8
Socorro	2,864	564	19.7
Roma	2,847	606	21.3
La Joya	2,719	389	14.3
Canutillo	1,825	280	15.3
Fabens	1,632	187	11.5
Hidalgo	1,005	273	27.2
Clint	807	87	10.8
Brackett	604	63	10.4
Presidio	545	112	23.7
Progreso	472	112	20.6
Dell City	372	58	15.6
Tornillo	312	69	22.1
Monte Alto	290	56	19.3
Ft. Hancock	252	66	26.2
Comstock	114	12	10.5
TOTALS	78,563	11,211	14.3

Table 19.-- Ethnic Make-Up of Texas Border School Communities Having Large Populations of Mexican Immigrant/Alien Students Enrolled during the 1st Quarter of 1975-76

School Community --	Percentage of Mexican-Americans	Percentage of Anglo-Americans	Percentage of Others
Brownsville	89	10	1
McAllen	80	19	1
San Felipe-Del Rio	57	40	3
Eagle Pass	95	5	0
Donna	90	10	0
Rio Grande City	98	2	0
Socorro	84	15	1
Roma	98	2	0
La Joya	95	5	0
Canutillo	80	19	1
Fabens	85	15	0
Hidalgo	98	2	0
Clint	58	42	0
Brackett	60	30	10
Presidio	96	4	0
Progreso	95	5	0
Dell City	45	55	0
Tornillo	78	22	0
Monte Alto	95	5	0
Santa Maria	100	0	0
Ft. Hancock	96	4	0
Comstock	55	45	0
AVERAGE	83	16	1